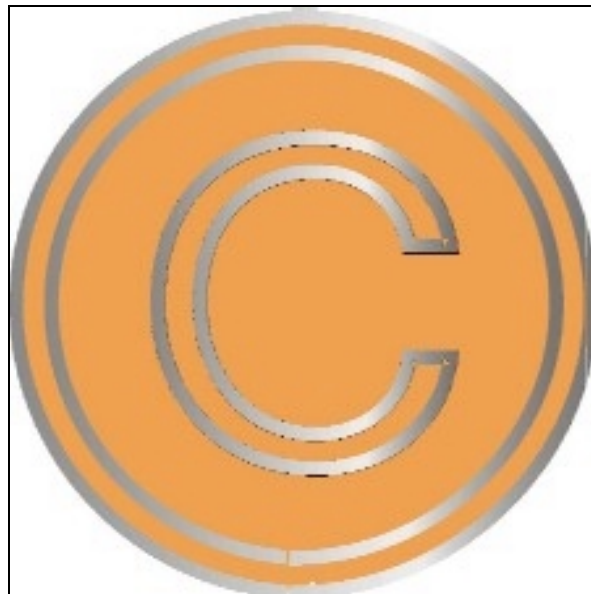


**Copyright And
Digital Rights Management:
Creator To Consumer In A Digital Age**



Bill Cope, Tom Davis and Mary Kalantzis

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About The Course Developer

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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'.

Aims

Knowledge scope

Copyright And Digital Rights Management explores the nature of intellectual property and ownership in the fast-evolving print and publishing environment. The course considers the position of copyright in contemporary legal jurisdictions, its exercise in the print and publishing industries, and the possible changes that it might be forced to undergo as a result of the digitisation of print. Copyright, or the private ownership of intellectual property, emerged in its modern form with the development of technologies for the mass production of the printed book. Developments in digital technologies, however, present a significant challenge to copyright. On the one hand, the digital environment can be used to enforce copyright more rigorously than ever before via digital rights management extensions to electronic files (encryption, pay-per-view etc.). On the other hand, the digital environment has thrown up a series of challenging and politically charged claims around freedom of speech and access to information. The course will examine the legal, commercial, and philosophical debates over copyright and legislation such as the US Digital Millennium Copyright Act, designed to address copyright issues in the digital age. It explores the technology and ideas underpinning the growing concept of Digital Rights Management as well as those of open source software, free software licenses and the notion of a copyright commons. These developments are considered in relation to their impact on publishing and print industries.

Knowledge and capability aims

As a result of working through this course you will have the capacity to:

- ⊗ understand the basic law pertaining to copyright and intellectual property and its relationship to the publishing and printing industries;
- ⊗ identify how existing copyright rules are being challenged by digital technologies;
- ⊗ engage in the key legal, social and economic debates over the extent to which copyright should be imposed on creators and publishers;
- ⊗ re-examine those debates in light of the way digitisation (and ‘granularisation’) alter notions of control and freedom; and
- ⊗ apply the existing evidence and ideas to the real world of publishing and print.

Learning pathways

A feature of this course is that it allows you to choose your own pathway according to your learning preferences, although suggested pathways are provided at the end of each element. You can choose to begin the course at any element and proceed to any other element. On completion of the course you must have worked through all nine elements. Your navigation path will reflect your past professional experiences and future interests. You can use the possible pathways presented below as a guide, but it is recommended that you design your own pathway.

Possible pathways

You may wish to approach a learning theme by exploring the empirical data in the field taken up in an *Empirical And Experiential* learning process, then progress to broadening your knowledge of current theories of that theme. Or, you may progress to the empirical evidence of another theme.

	<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 Pub. Industry
<i>Theme 2: EText</i>	2.1 DRM Systems & The Law	2.2 DRM & Freedom	2.3 The Industry Under DRM
<i>Theme 3: Convergence</i>	3.1 Software & The Commons	3.2 Protecting The Commons	3.3 The Commons & The Industry

If you have a strong practical understanding in a particular area, you may wish to begin the course in an *Applied And Transferred* theme and then progress to address this theme from a more theoretical perspective. Alternatively, you may wish to explore another theme with the same learning process.

	<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 Pub. Industry
<i>Theme 2: EText</i>	2.1 DRM Systems & The Law	2.2 DRM & Freedom	← 2.3 The Industry Under DRM ↓
<i>Theme 3: Convergence</i>	3.1 Software & The Commons	3.2 Protecting The Commons	3.3 The Commons & The Industry

If you are well versed in the theory of a particular area, you may wish to begin the course in a *Conceptual And Critical* theme and then progress to address this theme from a more empirical perspective. Alternatively, you may then wish to apply your theoretical knowledge on a practical level.

	<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 Pub. Industry
<i>Theme 2: EText</i>	2.1 DRM Systems & The Law	2.2 DRM & Freedom	2.3 The Industry Under DRM
<i>Theme 3: Convergence</i>	3.1 Software & The Commons	← 3.2 → Protecting The Commons	3.3 The Commons & The Industry

Framework map

Copyright And Digital Rights Management

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

Assessment

There are three forms of assessment in this course. Two significant pieces of work must be submitted: **Assessment Task A** (worth 25% of your final mark) and **Assessment Task B** (worth 75% of your final mark). There is also the **Hurdle Requirement** that you participate in the Discussion Groups for each of the element topics.

You should aim to ensure that the work you complete for Assessment Task A and the Discussion Groups builds toward your major piece of assessment, Assessment Task B.

Assessment Criteria

Your assessment tasks will be assessed in accordance with the following criteria:

- ⊗ Have you clearly identified the issue(s) you intend to explore?
- ⊗ Have you clearly identified the assessment format through which you intend to carry out your exploration, and then properly applied that format?
- ⊗ Have you justified your choice of issue and choice of format?
- ⊗ Have you clearly stated your key arguments and/or conclusions?
- ⊗ Have you gathered evidence appropriate to your issue and assessment format?
- ⊗ In your analysis of the evidence have you clearly shown how it supports your arguments/conclusions?
- ⊗ Have you related your arguments/conclusions back to the print and publishing industries?

Assessment Co-design

Your choice of an assessment task topic must be made in consultation with your teacher. During the introductory week you should familiarise yourself with the content of all nine Learning Elements of the Framework. The descriptions of the course readings are designed to assist you to do this. This will help you develop a sense of the topics and the **assessment format** that interests you and suits your background and/or professional experiences.

You must then discuss with your teacher your preferred assessment format for Assessments A and B and indicate the proposed focus. A Learning Report will be created between you and the teacher and will record your negotiations with regard to the assessment tasks and your preferred learning style.

The research for your final task will evolve as the course progresses; this will be documented in the Learning Report. As you progress through the Learning Elements, and engage in Online or Tutorial discussions, you will be testing ideas that can be used in your work for Assessment Tasks A and B. The smaller Assessment Task A represents a chance for you to trial the assessment format you intend to use in Assessment Task B. On completion of Assessment Task A you may decide to pursue a different Assessment Format in Assessment Task B. This will require renegotiation with your teacher.

Assessment tasks

Assessment Task A

This assessment task is worth **25%** of the total course mark. It must be approximately (but not exceed) **1,500 words** and presented in the assessment format you chose during the Assessment Co-design process.

Assessment Task A has two purposes:

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

In this task you will develop a proposal, which you will then implement for Assessment Task B.

Assessment Task A gives you the chance develop your proposal in a particular format before you undertake the major task of Assessment B. Assessment Task A must be **submitted by the end of Week 4**. It will be marked and returned to you promptly in order to maximise the time you have to develop your Assessment Task B. With your approval, your Assessment Task B may be uploaded onto the website on completion of the course.

Assessment Task B

This assessment task is worth **75%** of the total course mark. It must be approximately (but not exceed) **3,500 words** and will be assessed by the teacher on completion of the course.

The purpose of this assessment is to provide you with the opportunity to explore course-specific knowledge through a particular assessment format in a more substantive manner. Templates will be supplied to assist you complete this assessment task. Remember—before undertaking this work, you must confirm with your teacher:

- (i) the subject matter and topic of the assessment task; and
- (ii) the assessment format.

Hurdle Requirement

The ‘hurdle’ is a requirement which must be fulfilled before you are eligible for final assessment. This course sets as a Hurdle Requirement the satisfactory involvement in online Discussion Groups and/or attendance at tutorials before your Assessment Task B may be submitted for evaluation. ‘Satisfactory’ means a reasonable participation in online Discussion Groups (**3 posts or more**) in a **minimum of 6 of the 9 weekly Elements**. If this course is being delivered face-to-face, ‘satisfactory’ means reasonable participation at **70% of tutorials**.

Assessment formats

The following pages provide information about different task formats you can choose for your assessment. Examples of specific studies are given after each format.

Case Study

Below are some possible steps to follow when undertaking a Case Study:

- ⊗ Identify the key intellectual positions established by the literature in this field.
- ⊗ Review the literature. This should be relatively brief—around 500–800 words out of a total of 3,500.
- ⊗ On the basis of your understanding of the literature, decide on a research question you wish to explore.
- ⊗ If possible, break your research question down into smaller component parts that come together logically to help you answer the larger question.
- ⊗ In order to build an answer to your research question, select a case to be studied—it might be an institution or a phenomenon (issue or action).
- ⊗ Justify why that particular case has been chosen. How is it similar to, or different from, other cases in this field? How might your potential findings answer your research question?
- ⊗ Compile the data relevant to the case. This is usually unmediated data, e.g. primary documents (such as government and industry reports), commercial documentation (such as company annual reports), newspaper reportage, interviews with participants, etc.
- ⊗ Set out your data in a structured manner. You might do this thematically, chronologically or in a manner that reflects the institutional structure of the case studied.
- ⊗ Where possible, ‘triangulate’ between the different forms of data (i.e. compare how different data sources interpret a particular event or institution).
- ⊗ Analyse your research findings. How is your case study similar to, or different from, the key intellectual positions in this academic field?

Case studies tend to focus on empirical and experiential skills, although conceptual and critical abilities are also required.

An introductory text to case study methodology is [Burns \(1996\)](#).

Case Study example

Literature review

- Identify key themes in your sources (For example: Litman's (2001) Ch 12, "Revising Copyright Law for the Information Age" in *Digital Copyright* focuses on impact of changes in digital technology on copyright regimes, and offers several public policy and legal responses. Reading this source in conjunction with others such as Lessig's work enables you to begin to define where the areas of contention are on these issues, thus giving you ideas on what your study should concentrate.)

Research question

- You should have just one, key research question. For example, *Have recent changes to Australia's Copyright Act in response to changes in digital technology improved the profitability of on-line publishers?* However, this major question may be broken down into sub-questions that will help you structure your research.

Select a case

- An industry-wide focus: the Australian publishing industry.
- Alternatively, you may decide to focus on a single business or a single aspect of running an Australian online publishing business under the evolving digital copyright regime.

Gather data

- Draw on material such as: industry and government reports; reports and statistical data from the Australian Bureau of Statistics; publicly available business information on the specific organisation; reports from interest groups; reports from marketing groups; newspaper articles; and/or academic journal articles.
- Where appropriate (and in line with your academic institution's research ethics policy) you may wish to conduct interviews with key stakeholders in the industry or the particular organisation on which you are focusing.

Case Study example (cont.)

Present data

- You might use the sub-questions of the research question as headings under which you divide up your data, e.g. royalty payments, contract transaction costs, production processes, etc.
- Indicate where different types of data agree or disagree on particular issues (i.e. triangulation).

Analyse data and make findings

- Provide detailed reasons for your findings and conclusions with reference to the data you have presented. For example, you might conclude that, on the basis of comparing earlier and more recent figures on production costs associated with copyright adherence, the copyright laws as they relate to digital, online publishing have produced few changes in business profitability.

Action Research project

Action research is 'learning by doing'. It is usually undertaken by a researcher (or a group) who is working within the organisation that is the object of study or is engaged in activities in the study area.

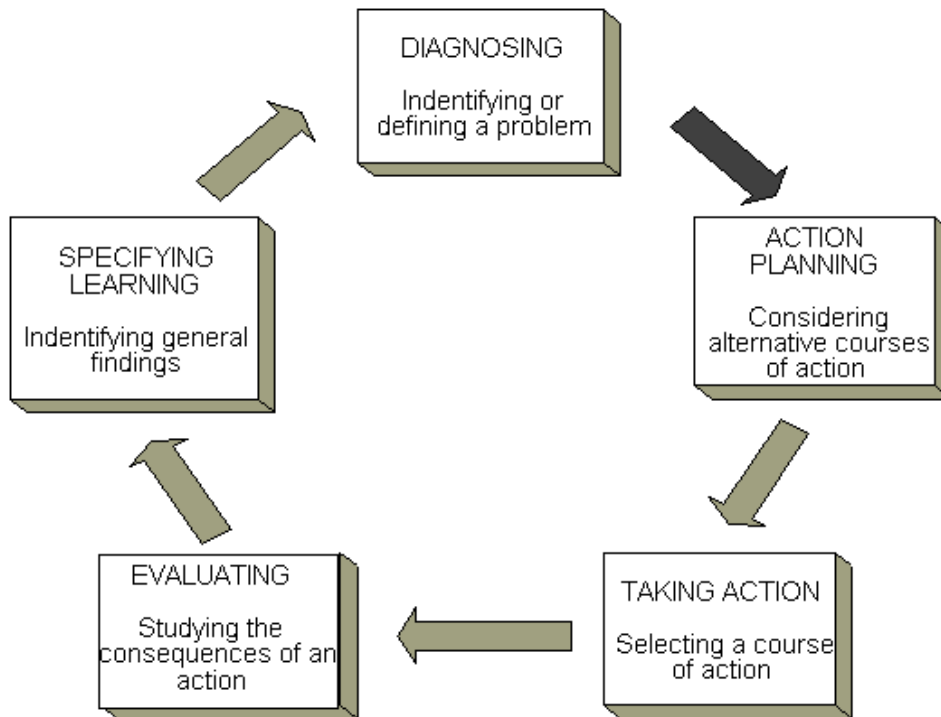
The points below describe some possible steps to follow when undertaking an Action Research project:

- ⊗ The first step in action research is to define the real world problem that requires resolution.
- ⊗ A possible solution to the problem is then proposed.
- ⊗ This solution is then implemented, with performance outcomes regularly monitored.
- ⊗ The criteria by which performance is measured are also regularly re-assessed.
- ⊗ This research method is primarily qualitative, although quantitative measurements and data gathering may also be employed. In general, data is sourced through daily journals, interviews and group discussion, as well as primary documentation.
- ⊗ In the context of this course, an Action Research project may be conducted in a more 'second-hand' manner, where the researcher examines the experience of an organisation, or several organisations, in responding to a specific problem.
- ⊗ This assessment task incorporates elements of all three learning styles (*Empirical And Experiential, Conceptual And Critical, Applied And Transferred*), though its focus is on *Empirical And Experiential* and *Applied And Transferred* approaches.

A clear description of Action Research methodology can be found in O'Brien (1998).

Action Research project example

The Action Research Cycle



Source: <http://www.web.net/~robrien/papers/arfinal.html>

The Problem

- (Assuming you work within the Australian print or publishing industry and the following is a problem that is currently facing your business.)
Can the profits of online publishing be improved through digital rights management systems (DRMS)?

The Plan

- Run a mock pilot study comparing the difference between online publishing models with and without DRMS.

Action Research project example (cont.)

The Project Strategy

- Identify all potential costs and opportunities through an issue identification forum with work colleagues.
- Identify all potential costs and opportunities through the relevant literature and product descriptions and tests.
- Out of this process clarify and justify the key measurements by which costs and DRMS-influenced revenue will be ascertained.
- Clarify the sources of data to be used: product analyses, industry and government reports and statistics, specific business costings (gathered from a range of print firms and averaged out) and your own cost analysis.

Evaluation

- Collect the data and make the costs and revenue comparisons.

Findings and the Identification of New Problems

- The conclusion to be drawn from this research process is that there are some revenue advantages operating DRMS, but that there are also implementation and start-up costs to be considered and consumer behaviour to be factored in—these being issues that may need further investigation.
- A plan for further action, which may or may not lead toward implementation, would take into account the problems encountered in the course of this project.

Business or Strategy plan

Business and Strategy Plans seek to apply pre-existing evidence and analysis to real world scenarios.

The points below outline some possible steps to follow when undertaking a Business or Strategy Plan:

- ⊗ The goal here is to detail a course of future action for a private organisation (not necessarily a for-profit company) operating in the print, publishing or digital media markets.
- ⊗ The first action in drawing up a plan is to define the organisation for whom the plan is intended and the environment in which it operates (e.g. publishing, printing, digital media, etc). The organisation may be a fictional or an existing entity.
- ⊗ Using the pro formas and business literature provided in the course readings, as well as the business data gathered from the organisation itself (e.g. annual reports), the task is to determine: the goals of the organisation (long-term and short-term); the market environment; the strategy whereby those goals might best be achieved within that environment; the capability of the organisation to follow that strategy; and the range of options the organisation has open to it.
- ⊗ While full financial costings are not required for the purposes of this exercise, there has to be evidence of some cost–benefit analysis.

A pro forma business plan is (PlanWare, 1999a). Information on Strategy Plans can be found in (PlanWare, 1999b) and (PlanWare, 1999c), while information on SWOT Analysis can be found in (MindTools, 1995).

Business Plan example

- Assess the business's EXISTING Strengths and Weaknesses (internal to the business) and the current Threats and Opportunities presented by the industry (external to the business). This can be done in extended dot point format under the respect headings.
- Set out the vision you have of where the business will be in 4 to 5 year's time. (e.g. Your business will be of a certain size, scope and nature—it will have a certain position in the market and in the industry.)
- Provide a short paragraph setting out the mission/purpose statement for business to cover next 4–5 years. (e.g. Your business performs certain activities in pursuit of the defined vision.)
- Provide a statement of corporate values and beliefs. (How does your business see its relationship with customers, staff, suppliers and stakeholders—how does it behave?)
- Set out key long-term objectives.
- Identify the business's key strategies and major functional areas.
- Assess possible FUTURE strengths, weaknesses, threats and opportunities.
- Review your vision, mission, values and objectives for the business.
- Specify major goals achievable over the next 4–5 years.
- Define strategic action programs.

Reflective Journal

The purpose of this task is to provide a personal reflection on how the knowledge and techniques imparted in the course may, or may not, be applicable to daily work within the industry. The focus is on the participant's own practice, although observations on broader workplace practice can be made.

- ⊗ Your reflections should be both chronological and thematic. They should explicitly refer to the relevant readings and analyse how those readings might relate to your workplace.
- ⊗ This assessment task combines all three learning approaches, although its emphasis is on the *Empirical And Experiential* style. For a methodological overview of two types of reflective journals refer to:

A: 'Keeping a Reflective Journal' by the Institute for Interactive Media and Learning, University of Technology Sydney, also at <http://www.clt.uts.edu.au/Scholarship/Reflective.journal.htm>

B: Australian National University's Centre for Educational Development and Academic Methods: 'Keeping A Reflective Journal', also at <http://www.anu.edu.au/CEDAM/ssfun.html>

Reflective Journal example

Questions to ask yourself:

- *What is the current problem or issue I wish to address?*
- *What additional information would be useful?*
- *What are my assumptions?*
- *What can I do to create a change? [Be as adventurous as you can in your suggestions.]*
- *What are the possible outcomes of these?*
- *What action will I take? Why?*
- *What outcomes do I hope to achieve?*
- *Reflect on the actual outcome: What worked well?*
- *How does this connect with an aspect of my practice?*
- *What are the teaching and learning principles that are involved?*
- *What could I change in relation to this?*
- *What would happen if I did?*
- Focus on a critical incident
- Describe the incident as objectively as possible.
- *What were the assumptions that you were operating with?*
- *Is there another way to see this event?*
- *How would your students explain this event?*
- *How do the two explanations compare?*
- *What could you do differently?*

Argumentative Essay

This task involves the production of a critical academic paper. The essay must be argumentatively structured and focus on one of the key themes or debates within the course.

- ⊗ It is important to note that what is required here is an *argumentative* essay not a *descriptive* one.
- ⊗ In the Introduction to the paper you need to provide a reasoned argument that responds to your chosen topic.
- ⊗ In the Main Body of the paper you need to indicate the counter-arguments to the position you are supporting, and then explain why, on balance, you arrive at your conclusion.
- ⊗ Argumentative essays tend to rely on the discussion of secondary sources and analytical material. It is for that reason they generally fall within the *Conceptual And Critical* learning style.
- ⊗ Some useful tips on writing an argumentative essay can be found in [Peterson \(1996\)](#).

Argumentative Essay example

Your essay should be set out in the following way:

- A clear and unambiguous conclusion.
This should be your first sentence, so the reader knows what you are trying to prove.
- Clearly state the issue and explain why it is important.
- Good organization.
Keep sub-arguments together. A sub-argument usually takes one to three paragraphs to develop. Make the conclusion of the sub-argument the first sentence.
- Support claims with evidence.
For every sentence ask yourself, *why should my reader believe this?*
Then give the evidence that will justify belief.
- Clarify.
Do not assume the reader will understand what you mean.
- Define key terms.
- Use appropriate modalities.
(In other words don't overstep your evidentiary limits.) When you use a high modality (for instance, "certainly") then you must use a sound argument (valid with true premises). You must use a deductive argument form in order to prove a claim with a high modality.
- Evidence of open-mindedness.
It should be clear that thoughtful consideration is being given to all positions. The BEST reasons for both positions should be in evidence, and both should be fairly analysed based on their logical adequacy, not their emotional appeal.

About this Learning Framework

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Keywords

Authorship
Content
Control
Copyright
Copyright Commons
Corporations v Individuals
Digital Rights Management
Free Software
Freedom
Governance
Innovation
Intellectual Property
Open Source Software
Ownership
Privacy
Protection
Public Interest
Publishing