

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

Learning element 1.3

Copyright And The Publishing Industry:

How does the publishing industry deal with copyright issues?



Bill Cope, Tom Davis and Mary Kalantzis

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www.C-2-CCourse.com

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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>Theme 1: Copyright & Intellectual Property</p>	<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>
<p>Theme 2: Digital Rights Management</p>	<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>
<p>Theme 3: Copyright Commons</p>	<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>

Aims

Knowledge scope

Copyright And The Publishing Industry pushes you to apply your empirical and critical knowledge of copyright issues to the pragmatic reality of managing rights in an industry context. You are asked to focus on the interaction between the publishing and print industry as well as creators, especially the way in which contracts are used to formalise the assignment of rights. You are also required to consider the roles played by parties other than the creator and the producer. This includes copyright management agencies, professional associations, literary agents, government agencies, the courts and (inevitably) lawyers. It is open to you to consider this commercial and legal environment from the position of either a creator or a producer. This requires you to employ a problem-solving, applied learning approach.

Knowledge and capability aims

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

- ⊗ begin applying the knowledge you have gained on copyright and intellectual property issues to real world scenarios in the publishing industry;
- ⊗ considering copyright-related activities such as contract-formation, rights-management, and professional relationship-building from the perspectives of several players (publishers, creators, agents, courts etc);
- ⊗ appreciate and work within the commercial, market-driven realities of the publishing or print industries that impact on the ascribing of rights and responsibilities; and
- ⊗ better employ primary and secondary source material in forward planning responses to the intellectual property and rights management issues and structures you 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,
Cultural studies or
Technology 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) **What is it *feasible* for a creator (e.g. a novelist) to do in order to ensure the rights they possess in their work are respected?**
- 2) **Once a publisher agrees to publish a novelist, what do they need to do in order to ensure they have the right to take a percentage of a book's profits? And how can they ensure their exposure to copyright breaches (such as where the author they are publishing has plagiarised another's work) is minimised?**
- 3) **What role do literary agents play in the interaction between creator and publisher/producer? Are they necessary?**
- 4) **Does a creator always have to go to court in order to ensure their rights are respected, or are there other options?**
- 5) **What role do professional associations play in the commercial relationship between creator and producer?**

Recommended reading:

Focus on the Australian industry sources provided — especially the Ditrich chapter — in building your own understanding of the industry realities. The web resources in this element are also extremely useful.

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 or Technology.

Title:	Copyright for Book Publishers: A Practical Guide
Author(s):	Australian Copyright Council
Year:	1997
City:	Redfern, NSW
Publisher:	Australian Copyright Council
Perspective:	Business
Keywords:	Australian copyright rules and legislation, Key copyright principles, Intellectual property, Australian book publishers
Abstract:	A government information booklet that sets out in brief form the copyright rules most applicable to publishers and what the practical implications of these might be.

Title:	Writers & Copyright: A Practical Guide
Author(s):	Australian Copyright Council
Year:	1997
City:	Redfern, NSW
Publisher:	Australian Copyright Council
Perspective:	Business, Law
Keywords:	Australian copyright rules and legislation, Key copyright principles, Intellectual property
Abstract:	A government information booklet that sets out in brief form the copyright rules most applicable to writers/creators and what the practical implications of these might be.

Title:	Part I - "Print Contracts" from Australian Book Contracts: Print Contracts, Digital Contracts
Author(s):	Ditrich, Julie
Year:	2001
City:	Strawberry Hills, NSW
Publisher:	Keesing Press (for the Australian Society of Authors)
Perspective:	Business
Keywords:	Australian copyright rules and legislation, Key copyright principles, Intellectual property, Contracts, Practical business guide
Abstract:	An Australian Society of Authors publication that sets out how standard contracts operate in the industry and how they work to protect copyright and the respective stakes of creators and producers in a work.

Title:	Ch3, 'From author contract to market outlet' from Inside Book Publishing (2nd ed)
Author(s):	Clark, G.N.
Year:	1994
City:	London
Publisher:	Blueprint
Perspective:	Business
Keywords:	Copyright, Contracts, Literary Agents, Markets, Publishers, Writers, Retail
Abstract:	A practical description, based on the experience of industry insiders, of the sequence from the author's agreement with a publisher to the distribution of the work in the market. It sets out the position and importance of copyright allocation within this process.

Title:	The Australian Writer's Marketplace: The Complete Guide to Being Published in Australia
Editor(s):	Whitton, Rhonda
Year:	2001
City:	Melbourne
Publisher:	Bookman
Perspective:	Business
Keywords:	Copyright, Contracts, Literary Agents, Markets, Publishers, Writers
Abstract:	Lists thousands of markets and contains advice from published writers on both the writing process and getting published. There are essays about writing for the web (Christine Davey), characterisation (Sydney Smith) , manuscript presentation (Rhonda Whitton) etc. Market information includes a listing of magazine and journals, newspapers, script markets and publishers, with contact details, submission information, payment rates, & editorial tips. Other information includes listings of agents and manuscript appraisal services, literary organisations, writing contests, literary courses and events.

Web sources

Australian Copyright Council

www.copyright.org.au

Australian Publishers Association. 2001. Submission to the Copyright Law Review Committee Secretariat (10 August 2001). Online version taken from the Copyright Law Review Committee

152.91.15.12/www/clrHome.nsf

Australia's Copyright Agency Limited (CAL)

www.copyright.com.au/home.htm

Australian Society of Authors

www.asauthors.org/cgi-bin/asa/information.cgi

The Australian Writers Guild

www.awg.com.au/

The Publishing Law Center (US)

www.publaw.com

The Ellen Levine Literary Agency

www.ellenlevineagency.com

The Bryson Agency Australia

www.bryson.com.au

Assessment Task A option

You may wish to draw on the issues raised in this element, **Copyright & 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 & 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 1.3

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 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/or Culture.

You may now wish to engage with a new theme by undertaking an **Empirical And Experiential** learning element and pursue more practical issues regarding the relationship between the theme you have just completed and elements of other themes, such as: **Digital Rights Management (DRM) Systems And The Law** and **Software And The Intellectual Commons**. If you wish to tackle a **Conceptual And Critical** element at this point, you need to bear in mind that it may draw on information you have not 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 And The Publishing Industry applies empirical and critical knowledge of copyright issues to the pragmatic reality of managing rights in an industry context. You are asked to focus on the interaction between the publishing and print industry as well as creators, especially the way in which contracts are used to formalise the assignment of rights. You are also required to consider the roles played by parties other than the creator and the producer. This includes copyright management agencies, professional associations, literary agents, government agencies, the courts and (inevitably) lawyers. It is open to you to consider this commercial and legal environment from the position of either a creator or a producer. This requires you to employ a problem-solving, applied learning approach.

Keywords

Australian Copyright Council
Australian Society of Authors
Australian Writers Guild
Contracts
Copyright
Copyright Agency Limited
Creator
Fair Use & Fair Dealing
Intellectual Oroperty
Literary Agents
Moral Rights
Originality
Ownership
Rights Management