E-Learning

Copyright and E-Learning

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Abstract

This paper provides clarification for those wishing to use, create and / or adapt materials for use in an online environment that need to be copyright cleared prior to usage. It provide a clear 10 step process to aid in this and elaborates on how Creative Commons may be used for the distribution of Open Educational Resources (OER1).

Copyright

Quite simply, copyright protects creative or artistic works, and any use of such must be with the copyright holders permission. The general rule is that the author is the first copyright owner, however where work may be made during the course of employment, the employer is the first copyright owner (subject to agreement to the contrary).

Within the UCD context, the University lays claim to any intellectual property (IP) created during the course of the employment of academic, research and other staff. The University does not assert ownership of copyright in pedagogical works (unless there is a written agreement to the contrary). Furthermore the University will not assign rights to the usage of teaching materials without prior written agreement.

The issue arises when wishing to use materials, how does one know when it is legal to do so? Most literary and artistic works (such as images) have a copyright duration that extends 70 years beyond the life of the author. Hence the need to avail of a licence – a permission to use someone else’s property. The potential defences of private use, fair dealing and the educational exemption (S.53) are limited in the larger context of university teaching.

If you wish to use particular materials you need to check if it is in copyright (the burden of proof is on the end user). Consider whether you may use it under one of the exemptions, remembering that even if it is possible, you may still not be able to:

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1 Want to know more about OER and CC? Read the paper “Open Educational Resources and Creative Commons Licensing” at http://tinyurl.com/m94ezb
- Copy the work,
- Issues copies to the public,
- Rent or lend to the public,
- Perform, show or play to the public,
- Broadcast to the public,
- Make an adaptation etc

…all of which are copyright restricted acts

The next step is to enquire whether content is available under licence. Often a direct approach to the author or copyright holder for permission to use the content in an educational context can be an effective solution. At the very least you will clarify the copyright situation and know whether or not you have or may be given permission (under licence) to use the material.

Do NOT ignore copyright.

Here are two common scenarios that you may come across in your day-to-day practice:

Use of Text based materials

Although it is relatively easy to cut and paste from multiple different electronic resources, more than likely each of these is protected by copyright – therefore you are not allowed to use full, part or extracts of text from sources such as books, journals and websites without first gaining permission (even if you have licensed access, you may still find that you are restricted to personal usage terms).

Fair dealing does allow ‘one’ to hold materials on your local PC (for personal research), but does not allow these to be republished or distributed via any virtual learning environment (closed or open). Again you may need to clarify the terms of licensed materials you have access to.
Use of Image based materials

You may use any photographic image that you have taken and own. You are not allowed to use images from other sources (books, magazines, websites etc) without first gaining written permission (or due access under a licence). You may also not use images derived from other original sources e.g. tracings of OS maps, copies of book illustrations by making a ‘reprographic’ copy (e.g. scan), even if only for personal use.

A Pre-Digitisation Check List

1. Separate the materials that are self-written from those which have third party materials in them.

2. Does a blanket licence – e.g. ICLA, license the third party materials?
   - If not, does written permission to copy the materials exist?

3. Does the licensed material allow for change of media – there may be a licence for photocopying materials but does it say anything about digitising and electronic storage of the materials?
   - If there is no agreement, permission may have to be sought.

4. If you have materials which are not covered by a licence nor by written permission and therefore you have no permission to digitise
   - Permission must be sought from the rights-holders.

5. Can the rights-holders be identified from the materials?
   - Is it easy to contact the rights-holders?
6. If existing digitised material (e.g. CD-ROM) forms part of the materials and is to be further copied by placement on a VLE, for example, it is unlikely that this transfer would be allowed
   • Check the terms and conditions that come with the CD-ROM or other such materials.

7. Is the material still under a copyright term?
   • 70 years after the death of the author
   • Or 25 years from the date of the publication of the edition you want to use?
   • Understand copyright duration

8. Are there any exceptions you can call upon?
   • Personal (e.g. private use), Purpose driven (e.g. educational), Institutional (e.g. library), Licence to use (e.g. Government) etc.
   • Be clear before proceeding

9. If you are unable to digitise because there is no licence and / or it is difficult to contact the rights-holders
   • Consider directing students to other digital resources e.g. Education Media Online etc
   • Check with your local library/resource unit to determine which resources they have and which can be accessed by you and your students

10. Ensure that any materials that can be legitimately digitised are accompanied at all times by an acknowledgement or source.
• Ireland: Copyright and Related Rights Act 2000

• Irish Copyright Licensing Agency Limited (ICLA)
  – Digital Scanning And Intranet Extension For Certain Works Published In Ireland

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  David Jennings on behalf of the NDLR, 02.06
### Step 1: Review the License Conditions
Creators choose a set of conditions they wish to apply to their work...

<table>
<thead>
<tr>
<th>License Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Attribution</strong></td>
<td>You let others copy, distribute, display, and perform your copyrighted work — and derivative works based upon it — but only if they give credit the way you request eg BY ‘x’.</td>
</tr>
<tr>
<td><strong>Share Alike</strong></td>
<td>You allow others to distribute derivative works only under a license identical to the license that governs your work.</td>
</tr>
<tr>
<td><strong>Non-commercial</strong></td>
<td>You let others copy, distribute, display, and perform your work — and derivative works based upon it — but for noncommercial purposes only.</td>
</tr>
<tr>
<td><strong>No Derivative Works</strong></td>
<td>You let others copy, distribute, display, and perform only verbatim copies of your work, not derivative works based upon it.</td>
</tr>
</tbody>
</table>

### Step 2: Select The License
Once the conditions are chosen this results in a Licence indicating how others may use the work

- **Attribution**
  - This license lets others distribute, remix, tweak, and build upon your work, even commercially, as long as they credit you for the original creation. This is the most accommodating of licenses offered, in terms of what others can do with your works licensed under Attribution.

- **Attribution Share Alike**
  - This license lets others remix, tweak, and build upon your work even for commercial reasons, as long as they credit you and license their new creations under the identical terms. This license is often compared to open source software licenses. All new works based on yours will carry the same license, so any derivatives will also allow commercial use.

- **Attribution No Derivatives**
  - This license allows for redistribution, commercial and non-commercial, as long as it is passed along unchanged and in whole, with credit to you.

- **Attribution Non-Commercial**
  - This license lets others remix, tweak, and build upon your work non-commercially, and although their new works must also acknowledge you and be non-commercial, they don’t have to license their derivative works on the same terms.

- **Attribution Non-Commercial Share Alike**
  - This license lets others remix, tweak, and build upon your work non-commercially, as long as they credit you and license their new creations under the identical terms. Others can download and redistribute your work just like the by-nc-nd license, but they can also translate, make remixes, and produce new stories based on your work. All new work based on yours will carry the same license, so any derivatives will also be non-commercial in nature.

- **Attribution Non-Commercial No Derivatives**
  - This license is the most restrictive of our six main licenses, allowing redistribution. This license is often called the “free advertising” license because it allows others to download your works and share them with others as long as they mention you and link back to you, but they can’t change them in any way or use them commercially.