

## Copyright issues for people with disabilities

I've recently had a bad case of conjunctivitis, rendering me almost blind temporarily. This made me realise how I depend upon my reading ability to acquire information and provide recreation. Our senses are the links to the physical environment and any impairment of them, particularly those of sight and sound, has a huge impact.

People with a disability may require print material to be available in a readily accessible form. For the partially sighted this may mean large print format, for the blind it could be Braille while intellectually disabled readers may need specially abridged versions of texts and all of these could also make use of audio books for study and recreation. The supply of these formats may infringe the rights of copyright owners.

Copyright is the exclusive right of the copyright owner in a work:

- to reproduce the work
- to publish the work
- to perform the work in public
- to communicate the work to the public
- to make an adaptation of the work.

To do any of these without the permission of the copyright owner constitutes copyright infringement. Many of these rights could have an impact on the ability of people with a disability to gain access to works for the purposes of work, study or recreation. For example, the right to make an adaptation would include the right to make an abridged version. The right to perform could preclude the reading aloud of material on a service such as Radio for the Print Handicapped, without permission.

### Exceptions

While the Copyright Act 1968 sets out the rights of the copyright owner, it also specifies a number of exceptions. There are also specific exceptions, aimed at people with disabilities or institutions assisting such people.

### Exceptions for institutions

Part VB of the Copyright Act 1968 permits institutions assisting persons with a disability to make and communicate reproductions of copyright material in accessible format. These provisions automatically cover educational institutions however disability organisations such as Vision Australia must apply to the Attorney General to be eligible.

Copies are made under a Statutory licence administered by the Copyright Agency Limited (CAL) on behalf of member authors and publishers. Master copies can then be used by the institution to provide copies to disabled clients; such master copies may also be shared with other eligible institutions. While free, certain conditions must be met.

The institution must:

- check that copies in the required format are not commercially available
- ensure that copies are only made available to persons with a disability
- must not sell the copies for a profit.

### Personal use exceptions

The recent (2006) amendments to the Copyright Act introduced the personal use exceptions of:

- time shifting – recording TV and radio programs to play at a more convenient time
- space shifting – making another copy in the same format eg copying from one CD to another
- format shifting – copying material from one format to another eg digitising a book by scanning or copying a CD to mp3 format.

Someone with vision impairment could use the last of these exceptions to convert printed material into accessible format such as audio. Copies must be for personal use, cannot be sold and the person making the copy must own the original.

The 'fair dealing' exception permits copying a certain proportion of text for the 'purpose of research or study'. This can be used by individuals to copy part of a work which they do not own but perhaps borrowed from a library. It is deemed fair if it is 10% of text, a chapter or an article from a journal. Only if unobtainable commercially, can the entire work be reproduced.

The 2006 amendments included an exception (Sect 200AB) which permits the use of copyright material for certain 'special' purposes. The use of this exception is limited to libraries and educational institutions in restricted cases. It is available for use 'by or for a person with a disability'. Although the meaning of this section is being debated it seems likely that it could be used to copy material for personal use that does not fall under the 'fair dealing' exception. This special exception cannot be used if another exception (such as a Statutory Licence) already applies.

### Licences

In addition to the Copyright Act, there are other licences or agreements available to assist persons with disabilities in dealings with publishers. While providing library services to individuals with disabilities can be a challenge, the special provisions in the Copyright Act go some way towards making this challenge surmountable.

See the Australian Copyright Council's 'Print Disability Copyright Guidelines' for further information or 'People with a disability: copyright issues' <http://www.copyright.org.au/disability>

Information about the Statutory licences may be obtained from the Copyright Agency Limited [http://www.copyright.com.au/institutions\\_assisting.htm](http://www.copyright.com.au/institutions_assisting.htm)

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