

Copyright myths and misconceptions

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Copyright gives rise to many myths, most of which are remarkably difficult to discredit and which keep resurfacing in different forms as technology changes and copyright law struggles to keep up. Here are a few of the more persistent.

There is no copyright notice on the publication, I can use it without permission.

The absence of a copyright notice does not mean that the work is not copyright. There is no legal requirement for a copyright notice to be present. A copyright statement does make it easier to trace the copyright owner and seek permission to copy.

The work is on the internet so it's in the public domain. I can use it.

The fact that a work is posted on the internet does not magically make it free of copyright protection. The term 'public domain' is bandied about without much understanding. There are some types of work that are in the public domain. Anything else should be regarded as copyright protected.

- Older material in which copyright has expired.
- Material in which copyright never existed, perhaps because it did or does not reach the threshold of originality required for protection.
- Works which the copyright owner has placed in the public domain by using a device such as a Creative Commons 'no rights reserved' licence.

The author is dead, so copyright has expired.

With the implementation of the Australia United States Free Trade Agreement (AUSFTA) Amendments in Jan 2005 duration of copyright was increased to 70 years after the death of the author. Prior to that the term was death plus 50 years.

The author has been dead for more than 70 years, I can copy a few chapters from a recent edition of their work.

Although the author's copyright has expired, the typographical and textual arrangement of a new edition of the work is copyright for

25 years after the date of publication. Look for an earlier edition.

The work is anonymous so I don't need to worry about copyright.

Anonymous works are protected by copyright until 70 years after the year of publication.

I'm not going to use the copy for commercial purposes, I won't be breaching copyright.

Apart from the fair dealing exceptions (which allow small amounts to be copied for specific purposes) the purpose for which the copy is to be used is irrelevant.

I asked for permission and received no response, I can go ahead and copy.

Perversely, the fact that you have tried to obtain permission only makes the offence worse – it indicates that you are aware that copyright exists but you still went ahead.

I've tried to find the copyright owner without success, I can make a copy.

As in the previous case, this is not a valid excuse. The Australian Copyright Council provides guidance on tracing copyright owners in its publication G51 'Owners of copyright: how to find' <http://www.copyright.org.au/publications/infosheets.htm>. Keep trying!

The work is 'out-of-print' so I can copy it.

'Out-of-print' does not mean 'out of copyright'. The publisher may be intending to re-issue or the rights may have been bought by someone else.

I can show a video to a group of people without permission if I don't charge them admission.

If the group of people come together for any other than a 'domestic' purpose, for example if they are members of a club or society then you must obtain permission from the distributor. You may also have to pay a licence fee.

On the whole librarians are aware of copyright issues and anxious to do the right thing, however they are just as likely as anyone to believe many of the above myths. If you are in any doubt, please don't hesitate to contact the ALIA copyright officer. ■

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