

Information Sheet for Schools

Copyright Implications of Learning Management Systems

1. What Is A Learning Management System?

A Learning Management System or Learning Content Management System (collectively 'LMS') is a software application that enables teaching material to be sourced, managed, accessed and/or delivered. There are many LMS available on the market. Examples include LAMS, Blackboard, myinternet and Moodle. Other services, such as ClickView, provide a content delivery system, which allows Schools to add digital content to their digital library and provides the means for students and teachers to access this content.

LMS facilitate copying, storing and sharing of content, which has significant copyright implications.

In considering the copyright implications of a LMS, Schools should consider:

- (i) whether teachers and students are authorised to do all the activities facilitated by the LMS; and
- (ii) how the use of the LMS by Schools is likely to affect copyright costs.

2. What Can Teachers and Students Do With LMS?

LMS may enable teachers and students to copy and communicate a variety of materials. For example, the LMS may enable teachers and students to:

- copy radio and television broadcasts and store them on the LMS
- copy purchased DVDs, CDs or existing recordings of television or radio broadcasts and store them on the LMS
- copy photographs, newspaper articles or other printed materials and store them on the LMS
- subscribe to educational podcasts and download audio files to the LMS
- copy material stored on the system on to a flash drive or lap top or insert the material into word documents, powerpoint presentations or videos
- share and exchange material stored on the LMS with other schools or jurisdictions.

Some of these activities may not be permissible under copyright laws. Other activities may be permissible, but they will increase the copyright fees payable by the Schools' sector to collecting societies.

3. How Can Teachers Use the LMS to Copy and Communicate Content?

Teachers may want use the LMS to copy and communicate various materials when customising class material. If the teacher, or another teacher employed by the School, has created the material for teaching purposes as part of their job, the SCHOOL will

generally own copyright in it. A teacher can use material in which the SCHOOL owns copyright in any way the SCHOOL authorises.

Teachers may also want to copy and communicate material in which the SCHOOL does not own copyright. Teachers can use this material by:

- (i) relying on, and complying with the copying limits of, the statutory broadcast and print licences; or
- (ii) obtaining permission from the copyright owner.

LMS may make their own catalogue of content available to subscriber Schools, and Schools can use this content within the scope of the LMS licence.

The table below sets out the basis on which teachers can copy and communicate different types of material created by others.

Type of Material being copied and communicated	Basis of right	Is it remunerable?
Radio and television broadcasts	Statutory broadcast licence	Yes
Existing copies of radio and television broadcasts	Statutory broadcast licence	Yes
Literary works (eg. books, newspaper articles, articles on websites, drawings, maps) Musical works (eg. sheet music) Dramatic works(eg. plays, scripts)	In general, teachers can copy: <ul style="list-style-type: none"> • up to 10% of a literary, musical or dramatic work or one chapter of a book • one article in a journal, two articles if on the same subject matter • the whole work if it has not been separately published and is not commercially available within a reasonable time at an ordinary commercial price • whole artistic works under the statutory print licence. Outside these limits, teachers would need to obtain permission directly from copyright owner.	Yes
Films (other than films copied from television under the statutory broadcast licence)	Would need to obtain permission directly from copyright owner	Would depend on the terms of the licence

Type of Material being copied and communicated	Basis of right	Is it remunerable?
Audio materials such as CDs and MP3 files (other than audio materials copied from radio under the statutory broadcast licence)	Would need to obtain permission directly from copyright owner	Would depend on the terms of the licence
Podcasts	Would need to obtain permission directly from copyright owner	Would depend on the terms of the licence

Following are some examples, illustrating how the limits of the statutory print licence work in relation to material stored on a LMS.

Example 1: Teacher A has placed chapter 4 of a history textbook on the LMS. Teacher B wants to store chapter 6 of the same textbook on the LMS for use with their class. Teacher B is not allowed to put chapter 6 on the LMS until chapter 4 is removed.

Example 2: A Teacher scans a cartoon and uploads it onto the LMS on 1 February 2006 ready for the start of the School year. At this time, she has made a 'reproduction' and a 'communication' under the Copyright Act, both of which must be paid for. At the end of 2006, the Teacher decides to leave the cartoon on the LMS as she will use it again for teaching in 2007. On 1 February 2007, the Copyright Act will deem that another reproduction and another communication of the cartoon have been made. This will happen for each year that the cartoon remains on the LMS.

4. How Can Students Use the LMS to Copy and Communicate Content?

If students copy or communicate material stored on a LMS (by emailing material to classmates or downloading material on to a flash-drive) they cannot rely on the broadcast or print statutory licences to do so.

The students' activity would have to be either:

- (i) directly licensed from the copyright owner; or
- (ii) permitted under the fair dealing provisions.

Schools should consider including terms of use policies and warning notices to minimise the risk to school systems arising from individuals using the system.

5. Sharing Content

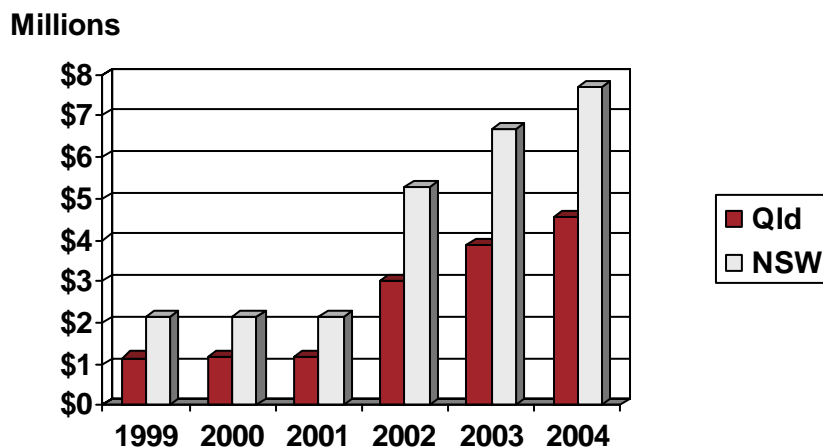
LMS may allow schools or entire educational systems to share content stored on the system with other schools. Sharing of content may be permissible under the statutory licences, but where material has been directly licensed, it can only be shared if the terms of the licence allow it.

6. Financial Implications

Schools pay a considerable amount of copyright fees to various collecting societies under the statutory licences. For example, in 2004 Schools nationally paid the following copyright fees:

Collecting Society	National Copying Fees	Statutory Licence
Copyright Agency Limited ('CAL')	\$33,689,361.00	for copying under the statutory print licence, based on previous year's volume of copying (per page copying fee)
Screenrights	\$10,750,353.00	for copying under the statutory broadcast licence (per student copying fee)

Copying costs have increased significantly in recent years. The following chart shows, as an example, the increase in copying costs under the print statutory licence in NSW and Queensland.



Percentage increase from 1998 – 2004:

QLD – 294%

NSW – 258%

Schools should be aware that, in addition to LMS' subscription costs, there are significant copyright costs associated with use of an LMS:

- LMS facilitate increased copying and communication of material, and copyright costs will therefore increase.
- There will be significant ongoing costs to store material on a LMS. Under the statutory licence, any material stored on the system for more than 12 months is treated as a new copy and a new communication and both must be paid for again.
- The licensing and administrative costs incurred in obtaining permission to store film and audio content, and any other material not available under the statutory licences, on the LMS could be significant.
- If material is shared with other schools or schools systems, the intended audience could be huge. This could potentially have a significant impact on the rate payable under the print statutory licence for each communication.

7. Practical Tips for Using LMS

If your School uses an LMS, you should endeavour to minimise remunerable copying by:

- using as much of the SCHOOL's own content as possible
- using, where possible, 'free-for-education' content (such as content made available under NEALS, Creative Commons (www.creativecommons.org) or AEShareNet (www.aesharenet.com.au))
- linking to websites instead of copying content from the websites into the LMS
- reviewing content stored on the LMS and removing it if the School is not using it within a 12 month period to avoid paying copyright fees for stored content

8. Where Do I Find Out More?

To find out more about the copyright implications of LMS, contact your local Copyright Manager:

**Callum Fraser on 0438 849 693 or
via e-mail callum@iinet.net.au**

The **National Copyright Guidelines** are available at

<http://education.qld.gov.au/strategic/eppr/national-copyright.pdf>.