



Name: Schools Copyright Advisory Group (CAG Schools)

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Improve school student outcomes with the best available tools and resources

What (if anything) needs to be done to improve the use of edtech tools (including GenAI) in schools?

This submission is made by the Schools Copyright Advisory Group (CAG Schools), which reports to the Australian Education Senior Officials Committee (AESOC), National Catholic Education Commission and Independent Schools Australia and is comprised of senior representatives from the Commonwealth, State and Territory Departments of Education, Catholic and independent schools sectors. On copyright matters, CAG Schools represents almost 9550 primary and secondary schools in Australia and their approximately 4 million students.

CAG Schools appreciates the Productivity Commission (PC)'s focus on improving student outcomes by ensuring they can access the best available tools and resources. We submit that there are two aspects to achieving this:

1. Improving access to the best available tools and resources, including genAI; and
2. Ensuring schools are equipped to teach students the digital skills needed to participate in the digital economy and enhance productivity across the economy.

There are currently copyright impediments to both aspects of improving student outcomes.

What are the current problems?

None of the existing education exceptions - or other exceptions in the Copyright Act 1968 (Act) - clearly apply to new technologies such as AI, text and data mining, machine learning, cloud computing, virtual reality or other innovative digital uses. Our copyright laws offer no guidance to Australian schools and administering bodies on the extent to which teachers can legally use genAI (eg using genAI to differentiate learning resources for students at various reading/comprehension levels). The extent to which AI tools can be built upon to better reflect the Australian curriculum and make them safer for students to use in the classroom is also unclear. This means that uses of the most innovative and groundbreaking technologies of the 21st century are not covered by exceptions, which would allow them to be developed by/for, or used in, Australian schools.

However, problems with the Act run deeper than the capacity of schools to adopt and implement AI. There is also significant uncertainty about how existing copyright exceptions apply to other digital technologies, including learning via platforms like Zoom. As such, the Act is not optimised for educational uses of a range of digital technologies from ChatGPT to Zoom.

As a result, our copyright framework reduces productivity at a systemic level and makes it difficult for schools and administering bodies to modernise teaching and learning practices using

new technologies, with any degree of confidence that these efforts will not create copyright risks and liabilities. Teachers in comparable jurisdictions like the UK, EU and Singapore do not face the same uncertainty because they can rely on more flexible, technology-neutral copyright exceptions than we have in Australia.

The Tech Council of Australia, in partnership with the federal government, has set a national target of growing Australia's tech workforce to 1.2 million people by 2030. To meet this ambitious vision, the education sector must play a critical role. Ensuring that Australian schools can confidently teach students how to use, deploy, and understand AI and other digital technologies is essential to building a digitally capable workforce. Schools must be empowered to teach students how to use, understand, and ethically deploy AI—skills that are increasingly foundational across all sectors.

Without clear copyright and regulatory settings that enable the public interest use of AI in classrooms, Australia risks leaving students behind in one of the fastest-growing areas of the economy. Equipping the next generation with these skills is not optional—it is foundational to achieving Australia's tech workforce vision, and enhanced productivity across the economy.

Specific problems with the current copyright system include:

1. Current public interest exceptions for education are not fit-for-purpose for digital technologies: for example, they do not neatly apply to remote learning (eg via Zoom) or how AI is being used for teaching and learning, and lag behind exceptions already available in other jurisdictions. As a result, we need to ensure Australia's copyright laws are updated to preserve the public interest in online teaching environments. For example, the preamble to WIPO's 1996 Copyright Treaty, to which Australia is a party, recognises "...the need to maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information, as reflected in the Berne Convention".
2. Current statutory licensing regimes need to be reviewed and updated to ensure they are appropriate for the digital world. There are longstanding governance concerns including an outdated Code of Conduct, and an ACCC review into the governance arrangements for collecting societies, recommended by the PC in 2015, which has still not taken place.
3. The current statutory licence applies to text and images that are publicly available and have no commercial market (eg free online health factsheets or government information), which means Australian schools are paying to use material that is free to use for everyone else. CAG Schools is extremely concerned that this could be exacerbated if licensing approaches are adopted for AI.

What is the solution?

Australian schools and administering bodies should be encouraged to use technologies in ways that are beneficial and in the public interest. However, the lack of appropriate educational copyright exceptions, and lack of certainty about how some existing exceptions apply in the digital environment, operate as a systemic productivity barrier.

More than a decade ago, the PC and the ALRC recommended changes to our copyright laws to support productivity and better suit the needs of Australian schools and administering bodies. These recommendations were never implemented.

The 2013 ALRC Copyright and the Digital Economy Report noted: "... existing exceptions for educational use of copyright material are due for reform. New exceptions are needed to ensure

educational institutions can take full advantage of the wealth of material and new technologies and services now available in the digital age.... Education should not be hampered or stifled by overly prescriptive and confined exceptions. Licences should not be required for fair uses of copyright material that do not harm rights holders and do not reduce the incentive to produce educational material.” [ALRC Report 122, Copyright and the Digital Economy (2013) p 311.]

The 2016 PC Intellectual Property Arrangements report endorsed the ALRC’s recommendations for copyright reform, and noted that rather than hindering innovation and creativity, as claimed by some participants, IP reform would also invigorate innovation by various means, including:

- Australian firms will be able to take full advantage of opportunities in cloud computing
- medical and scientific researchers will be able to better utilise text and data mining
- the education sector will avoid paying millions of dollars each year to use materials that are freely available online. [PC Inquiry Report No. 78, IP Arrangements (2016), Overview of Report p 27.]

There are two broad categories of reform needed:

1. to provide legal certainty for the use of digital technologies in remote learning; and
2. to urgently amend Australia’s copyright regime to improve and encourage adoption and use of leading edtech tools including, GenAI in Australian schools.

1. Changes to support remote learning

Amendments to support remote learning were announced by former Attorney-General The Hon Mark Dreyfus KC MP on 11 April 2024, which reflected an agreement on legislative change between representatives of schools and creative industries, reached during a series of copyright roundtables held in 2023-2024. [The Hon Mark Dreyfus KC MP, Media Release, Copyright reform to protect remote learning, 11 April 2024.]

These amendments would have ensured that:

1. existing rules for the use of copyright materials in the classroom also apply when lessons are delivered online, ensuring that the Act treats all students fairly, regardless of whether they are being taught online or in the classroom.
2. current restrictions in the Act are removed to allow parents and guardians to assist students in online lessons in which copyright material is used. This is particularly important for younger students who may need assistance to take part in online learning.
3. clarify that community members, such as local police, can present to a classroom without this affecting how copyright material can be used in teaching. This is important for enriching the diversity of the educational experience for Australian students.

These agreed reforms should be implemented as a first step towards modernising the Act for online learning. However, much more is required.

2. Changes to support the use of edtech and AI

To improve the use of edtech in schools, far greater legal certainty is needed from a copyright perspective. This could be achieved by adopting previous recommendations from the ALRC and PC, or considering new approaches to support the use and deployment of edtech and AI in Australian schools.

It is important to get the balance right between the interests of copyright owners and the public

interest in preserving access to education. Some uses of content for teaching should be paid for under a licence and other uses should be free (eg a teacher using AI to generate a list of Australian prime ministers). Law reform is needed to achieve an appropriate balance.

CAG Schools encourages the PC to include copyright as a core part of this consultation, and recommend new copyright exceptions to ensure Australian schools and students are appropriately protected by copyright exceptions that clearly permit appropriate free public interest uses of AI in Australian schools.

What more (if anything) needs to be done to improve awareness and access to high quality lesson planning and curriculum materials in schools?

As mentioned above, the copyright system should strike an appropriate balance between copyright licensing and public interest exceptions. In many jurisdictions, consideration has also been given to the creation of high-quality open education resources that can be freely used by teachers and students to enhance their education.

As well as the challenges raised above in relation to the lack of legal protection and certainty for the use of digital technologies and ed tech, Australia is falling behind comparable countries in relation to the use of publicly available materials, and the creation of open education resources (OER).

Ensuring free educational uses of publicly shared online materials

The Australian Law Reform Commission and Productivity Commission recommended the correction of an anomaly with the statutory licence for works, whereby Australian schools are required to pay licence fees to use free publicly shared online materials, in circumstances where schools in countries such as the United States, Singapore, the United Kingdom and European Union have a public interest exception to use these materials for educational purposes. [Australian Law Reform Commission, Copyright and the Digital Economy (ALRC Report 122, November 2013 https://www.alrc.gov.au/wp-content/uploads/2019/08/final_report_alrc_122_2nd_december_2013_.pdf) pp 319 - 322; Productivity Commission Intellectual Property Arrangements (Productivity Commission Inquiry Report. No. 78, September 2016 (<https://www.pc.gov.au/inquiries/completed/intellectual-property/report>), p 177 referring to the statutory licence contained in the prior Part VB of the Act, now contained in section 113P(1) of the Act].

Some of the publicly shared materials that Australian schools have paid licence fees to use include the 'About Us' pages of corporate websites, the nutrition guide on the McDonald's website, free fact sheets, and bullying and mental health resources on the Kids Helpline website. Ordinary Australians use these materials every day on the internet for free, but Australian schools are required to pay licence fees are required if the same content is used for teaching purposes.

A national approach to OER

As well as the copyright reform issues identified above, access to high-quality lesson planning and curriculum materials is a key issue for Australian schools. Importantly, "high-quality" resources can be developed by educational authorities for free use in schools, to be adapted and tailored to student needs without worrying about copyright infringement risks.

CAG Schools is strongly committed to the creation and use of Open Education Resources (OER). For more than a decade, state and territory Departments of Education have implemented policies that encourage or require open licensing of their copyright material. This requires the least restrictive Creative Commons licence to be applied to material (Creative Commons Attribution Licence (CC BY) (<https://creativecommons.org/licenses/by/4.0/>), unless circumstances prevent it. This licence allows material to be shared and adapted for any purpose, as long as the copyright owner is attributed.

Other Australian education organisations make their materials available under CC BY as best-practice: for example, Education Services Australia (ESA <https://www.esa.edu.au/other/terms-of-use>) and the Australian Curriculum, Assessment and Reporting Authority (ACARA <https://www.acara.edu.au/contact-us/copyright>) each license their websites under CC BY, as does ESA's Student Wellbeing Hub (https://studentwellbeinghub.edu.au/educators/professional-learning-courses/?course_type=educator). ACARA licenses the Australian Curriculum (<https://v9.australiancurriculum.edu.au/>) under CC BY, as do many state and territory authorities (e.g. the Queensland curriculum is licensed by the Queensland Curriculum and Assessment Authority under CC BY - <https://www.qcaa.qld.edu.au/copyright>).

Initiatives that leverage OER and AI are already established and appear to be working well overseas. One example is Oak National Academy (<https://www.thenational.academy/>) (Oak) from the UK, which is an executive non-departmental public body sponsored by the UK Department for Education. Through Oak, the UK Government has invested in creating a cache of around 16,000 high-quality OER that schools and teachers can use for free without needing permission from third party copyright owners or relying on a legislative exception or licence.

Oak licenses its OER under the UK Open Government Licence, which has equivalent terms to CC BY and clearly permits educational uses of Oak's material as long as attribution is given. This makes it clear to teachers how Oak resources can be used and allows flexibility for these resources to be used in new or different ways in the future.

Importantly, this has also enabled Oak to develop and launch its own genAI tool called Aila (<https://labs.thenational.academy/aila>) based on OpenAI's GPT-4o large language model. Aila generates curriculum-aligned lesson plans and other teaching resources like quizzes. To enable this functionality, Aila was fine-tuned using only curriculum resources developed by Oak (and in which Oak owns copyright). This meant that Oak did not need to rely on an exception or pay licence fees, because it was using its own material to train Aila (which is fine from a copyright perspective), and schools and teachers can use any output with a reduced risk of copyright infringement.

Development of OER resources would not replace the need for copyright reform as discussed above. However, a national approach to OER would be an important systemic boost to productivity in Australian schools, and ensure that Australian students have access to high quality materials that could also be used in AI training and development.

Is there anything more you would like to say about edtech, GenAI or lesson planning and curriculum materials?

Australia needs a copyright framework that is modern and adaptive enough to encourage greater engagement with innovative edtech and in particular, GenAI tools, by Australian schools and administering bodies.

CAG Schools encourages the Productivity Commission to consider Australia's copyright framework as a key productivity lever – as it has done in past inquiries and consultations such as the Inquiry into Intellectual Property Arrangements in 2016. CAG Schools supports past recommendations about copyright law reform for education made by the Productivity Commission and the Australian Law Reform Commission, which highlighted the economic and educational benefits that would flow from reform to Australia's copyright exceptions for education.

Changing Australia's copyright framework as previously recommended by the Productivity Commission (such as a fair use exception), or via other copyright changes specific to the education sector, would remove the uncertainty that surrounds the copyright risks and liabilities in this space and encourage the use of edtech and GenAI in our schools and administering bodies and support modern teaching and learning practices.

Which of the following best describes you?

The participant did not respond to this question.

Are you currently using any edtech tools (including learning games and GenAI) to support teaching and learning in the classroom?

The participant did not respond to this question.

If yes, what has been your experience with using these tools?

The participant did not respond to this question.

Are there things you would like to do with GenAI or edtech tools that you can't do currently? What's stopping you from doing these things?

The participant did not respond to this question.

If no, can you tell us why you are not using any edtech tools?

The participant did not respond to this question.

Do you access lesson planning and curriculum materials online?

The participant did not respond to this question.

If yes, what has been your experience with using these tools?

The participant did not respond to this question.

If no, can you tell us why you are not using online lesson planning and curriculum materials?

The participant did not respond to this question.

Support the workforce through a flexible post-secondary education and training sector

Credit transfer and recognition of prior learning

In your experience, how well does the credit transfer and recognition of prior learning system operate in Australia? Does it adequately support students to move between courses or have their work experience recognised as part of a qualification? Are there ways it could be improved?

The participant did not respond to this question.

Which of the following best describes you? Please select all that apply.

The participant did not respond to this question.

In the past 3 years, have you applied for credit recognition or recognition of prior learning (RPL)?

The participant did not respond to this question.

If yes, what was your experience in applying for credit recognition or RPL like?

The participant did not respond to this question.

If no, can you elaborate on why you didn't apply?

The participant did not respond to this question.

Work related training

What are the main reasons individuals and/or businesses do or do not participate in work-related training?

The participant did not respond to this question.

What role, if any, should businesses be playing to address any barriers and better support the offer of work-related training to employees?

The participant did not respond to this question.

What, if anything, could government do to address barriers and better support the offer of work-related training to employees?

The participant did not respond to this question.

Which of the following best describes you? Please select all that apply.

The participant did not respond to this question.

For business owners, managers and sole traders, how many employees do you have?

The participant did not respond to this question.

For employees/individuals, have you participated in any work-related training in the last 12 months that did not relate to general compliance (such as WHS)?

The participant did not respond to this question.

If yes, can you elaborate on the reasons for the training and any benefits you received from doing it?

The participant did not respond to this question.

If no, can you elaborate on any challenges or barriers you faced in attempting to undertake work-related training?

The participant did not respond to this question.

For business owners, managers or sole traders, have you provided or supported your employees to participate in work-related training in the past 12 months?

The participant did not respond to this question.

If yes, can you elaborate on the reasons for the training and any benefits you or your employees received from doing it?

The participant did not respond to this question.

Can you describe whether you accessed any government assistance, what type, and the amount received? If you didn't access any financial assistance, please tell us the reasons why.

The participant did not respond to this question.

If no, can you elaborate on any challenges or barriers you faced in attempting to provide or support your employees to undertake work-related training, such as the time or cost, availability of relevant or high-quality courses, and level of interest from your employees?

The participant did not respond to this question.

Balance service availability and quality through fit-for-purpose occupational entry regulations

What are the effects of occupational entry regulations? Please describe your experience and name the specific occupations you are referring to.

The participant did not respond to this question.

Do you believe current occupational entry regulations are proportionate to the level of risk associated with different professions? Why or why not? If not, do you have any suggested improvements to regulations to better reflect risks? Please name the specific occupations you are referring to.

The participant did not respond to this question.

Which of the following best describes your connection to occupational entry regulations? Please select all that apply.

The participant did not respond to this question.

Which state or territory are you predominantly based in?

The participant did not respond to this question.