

COPYRIGHT & DIGITAL CITIZENSHIP

Fact Sheets

Basic definitions of concepts such as IP, Copyright and digital citizenship, plus a range of questions and answers exploring issues and examining commonly held views in regard to copyright infringement and content piracy.



What Is...?

A glossary of key terms and Copyright - Then and Now

This guide to Intellectual Property and Copyright will assist teachers and students to better understand the impact of film and TV piracy and why copyright infringement is not good digital citizenship.

What is Intellectual Property (IP)?

Intellectual Property refers to creations of the mind: artistic and literary works, inventions, symbols and designs, etc. IP law protects creativity and innovations with things like copyright and patents.

So IP is the **'thing'** you have created – your story, song, photograph, or film.

What is Copyright?

Copyright is a legal term to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from films, TV shows, books, music, paintings and sculpture to computer programs, databases, advertisements, maps and technical drawings.

So copyright is the right you have to control how the **'thing'** you have created is used/seen/played/distributed, etc, and how it is monetised.

What Is Piracy?

Piracy is the unauthorised downloading, streaming, screening, copying, distributing and/or selling of copyright-protected content such as movies, TV shows and music. Piracy is sometimes called **copyright infringement**. Pirate websites are **unauthorised** or **infringing** websites.

So Piracy is when someone steals the **'thing'** you have created.

What Is Digital Citizenship?

In an article first published on TeachThought.com, former teacher and founder of that website, Terry Heick, defined digital citizenship as *"the self-monitored habits that sustain and improve the digital communities you enjoy or depend on."* www.teachthought.com/technology/the-definition-of-digital-citizenship

Creative Content Australia, the not-for-profit organisation which has created this resource, and which collaborates with ATOM on the **My Story My Content** short film competition

— says that one of the qualities of good digital citizens is that they respect copyright. And respect for copyright online means not accessing film, TV and music content from unauthorised websites or sources.

Copyright – Then and Now

The first copyright statute dates back to 1710 in the UK and is known as the Statute of Anne. Over 100 years later, the British author Charles Dickens railed against what he regarded as copyright infringement with the extensive publication of his works without permission or payment in the US, and advocated for international copyright laws.

In 1841, British politician Thomas Macaulay spoke to the House of Commons on copyright:

"It is desirable that we should have a supply of good books; we cannot have such a supply unless men of letters are liberally remunerated; and the least objectionable way of remunerating them is by means of copyright."

Much has changed since then but the fundamental purpose of copyright remains unchanged. In 2014, Senator George Brandis, Attorney-General & Minister for the Arts, said that copyright should *"ensure that those who take on the risks of creation are appropriately rewarded for their abilities and efforts."* He added:

"It is true that we now consume, create and distribute content in ways that would have been beyond imagining when Macaulay introduced the first copyright law.....I firmly believe the fundamental principles of copyright law, the protection of rights of creators and owners, did not change with the advent of the internet and they will not change with the invention of new technologies."

In June 2015 the Copyright Amendment (Online Infringement) Bill 2015 was passed, allowing content rights holders to get a Federal court order to authorise the blocking of specific websites or online locations that have the primary purpose of facilitating copyright infringement. Australian internet providers will need to comply with the court order by disabling access to those infringing locations or sites, such as The Pirate Bay.

The Facts and FAQs

Many pirates justify their online behaviour with a number of excuses. Some of the reasons they give for their online activity include:

- “Why should I be the only sucker to pay for content when everyone else is getting it for free?”
- “Copying and sharing stuff isn’t depriving anyone of physical property and isn’t really stealing.”
- “The film industry is booming. They are not suffering from piracy.”
- “I only watch it for myself and my family so I don’t feel bad.”
- “The content I want is not available in Australia at the same time as the rest of the world.”

Let’s look at those excuses more carefully:

“Why should I be the only sucker to pay for content when everyone else is getting it for free?”

Is everyone pirating content?

Actually, not everyone pirates. Here are the stats¹:

- **29% of 18-64 year old Australians** download film and TV content from pirate websites.
- **26% of 12-17 year old Australians** download film and TV content from pirate websites.
- **33% of 12-17 year old Australians** share pirated content frequently – even at school.

The truth is that 60% of Australians have never pirated film or TV content online. The perception that ‘everyone is doing it’ is often used to legitimise the behaviour.

“Copying and sharing stuff isn’t depriving anyone of physical property and isn’t really stealing.”

Why is it not just “sharing”?

The value of content is not in a physical product but in the experience of watching that film or TV show. The millions invested in making and marketing content can only be realised by people paying to watch it. Just because content is delivered digitally does not remove the rights of the owners.

Many people spend years to get a movie made - with no guarantee of financial return. When Australian independent filmmakers Tristan and Kiah Roache-Turner’s most recent film was released in 2014, it was downloaded via pirate sites tens of thousands of times. They said:

“What a lot of these ‘jolly pirates’ don’t understand is that the film was made by a bunch of people on weekends over four years on a ‘deferred payment’ basis. A lot of these amazingly talented actors and crew, including myself, have not seen a

cent from this film yet....It’s all very well to say, “Well, this is how the world is” or “If the industry won’t change fast enough, why should I bother?” But the simple fact of the matter is my cast and crew need to eat. So, please - YOU WATCH, YOU BUY and WE EAT. It’s really that simple.”

“The film industry is booming. They are not suffering from piracy.”

The film industry seems to be so successful, why does piracy matter?

Downloading, streaming or burning movies or TV shows from unauthorised sites or sources deprives the content creators or owners of revenue.

Screen content creators include not only high-profile producers, directors and actors, but thousands of artists, technicians, writers, stunt performers, set builders and painters, cinematographers, costume designers, make-up artists, caterers, animal wranglers and more.

Many of those behind-the-scenes people are freelancers and earn a modest fixed income during the time the show or film is in production. Their livelihood depends on the number of productions they work on and there may be long gaps between jobs.

Filmmaking is a very high-risk business. Films and TV shows are very expensive to make and to market and many, no matter how good they are, never recoup that money. Piracy plays a part in this and, when films don’t make money, investors for films become harder to find. When fewer films are made, there is less work for film crews and actors, and less choice for us all.

See Stunt Performer, Ingrid Kleinig, talk about jumping off buildings, being on fire and falling down for a living:

www.nothingbeatstherealthing.info/making-movies/making-movies-interviews-the-stunt-performer

1. Creative Content Australia Research 2013 & 2014 – <http://www.creativecontentaustralia.org.au/research/2015>

The Facts and FAQs

"I only watch it for myself and my family so I don't feel bad."

How does piracy affect Australians?

Did you know Australia produced the world's first feature-length film, *The Story of the Kelly Gang*, released in 1906?

www.youtube.com/watch?v=06zHofjYqDk

And since then movies like *Crocodile Dundee*, *Mad Max*, *Strictly Ballroom*, *Animal Kingdom*, *Paper Planes* and many more, plus TV shows like *Rake*, *Neighbours*, *Home and Away* and *Summer Heights High* have continued to ensure Australia's place on the international screen content map.

Australian creative content industries, which include the film and TV industry, contribute \$90 billion to our economy annually and employ over 6% of our workforce.² Australian crews and creators have a worldwide reputation for excellence and many international films are made in Australia.

- *The Lego Movie* was made at Sydney production facility Animal Logic over almost three years and more than 250 Australians worked on the film.
- *The Wolverine* created over 2,000 jobs and injected over \$80 million into the NSW economy when it was filmed in Sydney.

Piracy costs Australia \$575 million in losses to the film industry and over 6,000 potential jobs across the economy each year.³

Piracy affects the number and kinds of films being made.

It's simple: fewer films = fewer jobs.

See Australians Catherine Martin and Beverley Dunn win the 2014 Academy Award® for Production Design, on *The Great Gatsby*. This was Martin's fourth Academy Award®:

www.youtube.com/watch?v=kYTjyR8NJr4

"If we get to the pointy end where we as filmmakers get everything right, produce something entertaining, which people love, but the film cannot expect a decent return because pirates steal it – then it's over. It's not a viable business and ultimately quality Australian films won't get made."

- **Nelson Woss** (Producer of classic Australian hit film *Red Dog*)

So if it's only you and your family watching pirated content it doesn't matter, right? Wrong - the cumulative effect of lots of people thinking and behaving that way has a significant impact.

"The content I want is not available in Australia at the same time as the rest of the world."

Is there a delay in content reaching Australia?

Content is becoming increasingly available and accessible in Australia, with the arrival of more streaming and VOD (video on demand) services.

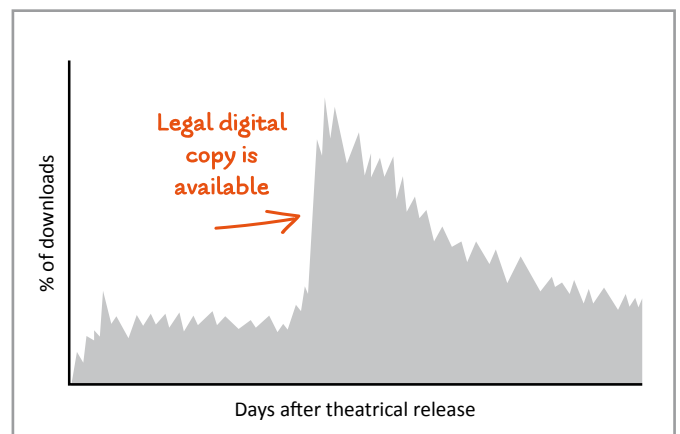
Subscription and free-to-air television networks are increasingly programming content as close as their rights deals permit to its broadcast in the US.

But the issues of availability, as well as price and accessibility, continue to be excuses used by people who just want to access content for free. Two-thirds of persistent illegal downloaders said they would still download a pirated episode of a TV show even if it was legally available in Australia at the same time as the rest of the world at \$2.99 an episode. For them it's not the availability or affordability - it's because they can get it without having to pay.⁴

Below is a list of 6 of the top 10 films from 2014 released in Australia the same day or before the US.

Film	Days ahead of US Release
X-Men: Days of Future Past	1
The Other Woman	8
Captain America	1
Bad Neighbours	1
Maleficent	1
The Amazing Spiderman	15

And piracy numbers actually spike once movies are available for legal digital purchase.



Source: MarkMonitor

2. "Valuing Australia's Creative Industries": A report released Feb 2014 by Australian Government's Creative Industries Innovation Centre.

3. Ipsos Media CT, Oxford Economics: "Economic Consequences of Movie Piracy – Australia" Jan 2011.

4. Creative Content Australia Research 2013 – <http://www.creativecontentaustralia.org.au/research/2015>

The Facts and FAQs

"Who is making the money?"

Piracy is a multi-million dollar business. The people who run pirate sites make lots of money - none of which ever goes back to the original creators or owners of the work. They benefit financially from other people's copyright.

"What are the risks associated with pirate sites?"⁵

- Only 1% of ads on pirate sites are 'mainstream' – placed by legitimate businesses
- The remaining 99% of ads on infringing websites are high-risk, including malware, viruses, fake jobs, bogus competitions, and scams
- There is a high risk of exposure to spyware, which could lead to identity theft

"Haven't the crew and cast already been paid?"

Investors provide the money for the production budget which pays the cast and crew. As with all businesses, those investors expect to recoup their investment, from the cinema season, sales of the film to TV and VOD, plus DVD or Blu-ray™ sales and rentals. If piracy impacts the return to investors, they are less likely to finance other films – resulting in fewer films being made and fewer jobs for freelance cast and crew.

"Isn't it just greedy distributors making money from films?"

It's not greed - it's business. Distribution is the complex and expensive process of getting a finished film in front of an audience. The distributor negotiates with cinemas to screen the film, and handles the film's marketing. They spend millions of dollars to compete for "eyeballs" in a crowded market with hundreds of choices – not only other films, but sport, games, TV, theatre, music and many other options. Distributors reasonably expect to see a return on their marketing investment.

Distribution Marketing Manager Heilan Bolton talks about how she works to get audiences to films.

www.nothingbeatstherealthing.info/making-movies/making-movies-interviews-the-marketing-manager

'How much could I be fined for downloading or streaming tv shows or movies from an illegal site?'

The fine may well be significantly more than it would have cost to pay for the content by accessing it legally in the first place.

"How do you tell if a movie or TV program is pirated?"

- If you can buy or download a movie before or during its cinema release
- If you can buy or download a TV program before its television airing
- If quality is poor, artwork and things like trailers, commentaries and language choice are missing
- If DVD covers are displayed in a folder or not at all
- If it has been downloaded via a file-sharing network, and there is no Australian classification

Unless it is a legitimate TV "catch-up" service, if you're not paying for content online, it's probably a pirate site.

"What can I do if I want to make a difference?"

- You could avoid streaming or downloading from pirate websites - when you use legitimate sites, the money you pay filters back to the creators, owners or distributors of the content
- You could avoid sharing or watching content on USBs or hard drives with friends or family. If you buy a DVD or Blu-ray™ you can lend it to others, but copying content and distributing it is illegal
- Films are made to be seen in cinemas - you could enjoy the experience of the film on the big screen with full sound & colour
- You could buy or rent the DVD or Blu-ray™ and enjoy all the extras (deleted scenes, bloopers and director's commentary)
- Please think before you click

'What happens if I download or stream tv shows, movies or music from an illegal site?'

- The site may be blocked and you may be redirected to a landing page advising where to access content legally.
- You may receive a series of notices from your service provider advising that your activity has been detected and, if you continue to access these sites, your name and contact details may be provided to the rights holder.

'What can rights holders do if they are given my name and contact details by the ISP?'

They can sue for the cost of the downloaded/streamed content plus additional costs that might cover money spent detecting illegal activity, including their legal and administration costs.

5. "A systematic approach to measuring advertising transparency online: an Australian case study" Dr. Paul A. Watters, University of Ballarat 2013

Perspectives on Intellectual Property and Copyright

**CARMEN
ORTIZ**

Online copyright theft and physical theft are the same:

“Stealing is stealing, whether you use a computer command or a crowbar, and whether you take documents, data or dollars. It is equally harmful to the victim whether you sell what you have stolen or give it away.”

► **Carmen Ortiz** – Chief Prosecutor, Boston, USA

Copyright needs protecting for business innovation to flourish:

“From the earliest days at Apple, I realised that we thrived when we created intellectual property. If people copied or stole our software, we’d be out of business. If it weren’t protected, there’d be no incentive for us to make new software or product designs. If protection of intellectual property begins to disappear, creative companies will disappear or never get started.”

► **Steve Jobs** - Apple Inc. founder

**STEVE
JOBS**

**KIM
WILLIAMS**

People should be paid for their work:

“...what you often hear from those who steal content, is that ‘It’s Hollywood, they’re all rich. That actor’s rich. Those producers are rich. The studio is rich – my downloading doesn’t hurt anyone’.

Well, the last time I looked the costume-makers and their designers on those remarkable productions, and the screenwriters, cinematographers, the electrician, the sound teams, the editors, publicists, even the drivers and caterers, all had to be paid for their work. They have to be paid so they can live like everyone else.”

► **Kim Williams AM** - Director at Copyright Agency Viscopy

Copyright theft can impact jobs:

“I’m a film editor. I’m sure when people illegally download, they don’t think of the impact on my profession and livelihood. But when investors, both studios and individuals, can’t recoup their money because of piracy, fewer films are made and jobs like mine become even more scarce.”

► **Jason Ballantine, A.S.E.** - Co-Editor ‘The Great Gatsby’, Editor ‘The Longest Ride’

**JASON
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▶ creativecommons.org.au

▶ nothingbeatstherealthing.info