An Industry Explainer on the Australian Copyright Syster

A visual guide to the principles, ecosystem, and emergent challenges of copyright law in Australia, from automatic protection to the new frontier of Artificial Intelligence.

Core Principles of Protection

Australian **copyright law** is built on several foundational concepts. These principles determine what can be protected, how that protection is granted, and the basic requirements a creation must meet to qualify for copyright.

Idea/Expression Dichotomy

Copyright protects the specific **expression** of an idea (e.g., the text of a book), not the **idea** or concept itself. This allows others to use the same underlying ideas as long as they don't copy the original form.

Automatic Protection

In Australia, **copyright protection** is **automatic and free** from the moment a work is created in a tangible form. There is no need for formal registration to secure these rights.

Categories of Protected Material

The Copyright Act 1968 divides copyright material into two main types: 'Works' and 'Subject Matter Other Than Works'. This distinction is crucial as it affects the rights, ownership, and duration of copyright protection.

'Works' vs. 'Subject Matter Other Than Works'

The Copyright Act 1968 divides protected material into two main categories, each with different rules for rights, ownership, and duration.

- ✓ **'Works':** Traditional creative expressions requiring originality (e.g., literature, music, art).
- ✓ **'Subject Matter Other Than Works':** Products of industrial or technical effort where the investment is often financial (e.g., sound recordings, films, broadcasts).

Copyright Duration in Detail

The length of **copyright protection** is not uniform. It varies significantly depending on the type of material, when it was created, whether it has been published, and whether the author is known.

Type of Material	Key Conditions	Copyright Term
Literary, Dramatic, Musical & Artistic Works	Author is known and died on or after 1 January 1955.	Life of the author + 70 years
	Author is known and died before 1 January 1955.	Expired (in public domain)
	Author is unknown (orphan work), published within 50 years of creation.	70 years from first publication
	Author is unknown (orphan work), not published within 50 years of creation.	70 years from creation
	Unpublished, author died before 1 January 1950.	Expired (in public domain)
Sound Recordings & Films	First published.	70 years from first publication
	Not published within 50 years of creation.	70 years from creation
	Sound recording first published before 1 January 1955.	Expired (in public domain)
Television & Sound Broadcasts	Broadcast made on or after 1 May 1969.	50 years from broadcast

The Australian Copyright Ecosystem

The copyright system is managed by a complex network of organisations. These include government bodies that set policy, collecting societies that manage licensing for creators, and advocacy groups that provide support and legal advice.

Organisation	Type	Primary Domain	Key Functions
Attorney-General's Department	Government	Law & Policy	Develops legislation, conducts reviews, international representation.
Copyright Tribunal of Australia	Statutory Body	Dispute Resolution	Adjudicates licensing disputes, sets royalty rates.

Organisation	Type	Primary Domain	Key Functions
Creative Australia	Government	Arts Funding & Advisory	Funds creative projects, advocates for the arts sector, advises government.
Copyright Agency	Collecting Society	Text & Images	Manages statutory licences (education/govt), collects & distributes royalties.
APRA AMCOS	Collecting Society	Music (Composition)	Licenses public performance, broadcast, and reproduction of musical works.
PPCA	Collecting Society	Music (Sound Recording)	Licenses public performance and broadcast of sound recordings.

Permitted Uses: The 'Fair Dealing' Exceptions

Copyright law includes exceptions that allow people to use protected material without permission for specific purposes. In Australia, this is known as the 'fair dealing' system, which is more restrictive than the 'fair use' system in the United States.

A Prescriptive Framework

To be permitted, a use of copyrighted material without permission must be for a specific, legislated purpose and must be "fair". The main purposes are:

- ✓ Research or Study
- ✓ Criticism or Review
- ✓ Parody or Satire
- ✓ Reporting the News
- ✓ Assisting people with a disability
- ✓ Legal Advice

Artificial Intelligence: The New Copyright Frontier

The recent explosion in generative AI has dramatically intensified pre-existing tensions in copyright law. What was once a somewhat academic debate has transformed into an urgent, high-stakes economic conflict, challenging the core principles of reproduction, originality, and authorship.

The Input Dilemma: Training AI Models

Generative AI models are trained on enormous datasets, often created by scraping text and images from the internet. This involves copying billions of copyright-protected works. Under current Australian law, this mass reproduction appears to be copyright infringement, as Australia's Copyright Act lacks a broad fair use defence and has no specific exception for text and data mining (TDM). This legal position stands in stark contrast to the situation in the US.

Timeline of Key Events

This timeline details key legislative developments, influential reports, and the emergence of significant challenges within the Australian copyright system.

1901

Constitutional Power

1968

Copyright Act Enacted

2006

Term Extension & New Exceptions

2013

ALRC Recommends 'Fair Use'

2015

Site-Blocking Laws Introduced

2019

End of Perpetual Copyright

Ongoing

Generative AI Challenges