

### COPYRIGHT LAW & LICENCES

Copyright law in Australia is contained in the Copyright Act 1968 and in decisions of the courts. It includes protection of the moving images and sounds in a film or video. Copyright protection is automatic. There is no need to register for protection.

To screen a film or video “in public” you generally need permission from:-

- A. The owner of copyright in the moving images and sounds,
- B. The owner of copyright in the script or screenplay,
- C. The owner of copyright in the music on the soundtrack.

The Copyright law states that you may not screen a movie “in public” without first getting permission from the rights owner. That usually results in a fee for the screening rights that apply for one screening only.

For the purposes of copyright law, screening a film or video “in public” means any screening outside the home, whether in a church hall, social club, pub, café, private school, council hall or cinema.

The fact that you own a film or video does not automatically entitle you to screen it in public.

Screenings in a private home to friends and family is exempt, but if the screening is promoted to the public or if the public can attend the screening (even as members), it becomes a public screening and in this case permission must be sought before the screening is permitted.

In most cases copyright in a film lasts for 70 years from the end of the year in which the creator of the film died. This generally applies even if copyright is not owned by the creator. In some cases the copyright period lasts for 70 years from when the film was made or when it was first released.

In an email from the NFSA, the Licensing and Rights officer Nelson de Sousa:-

*“Films made before 1 May 1969 are protected by copyright for 70 years from the death of the last surviving director or scriptwriter. Films made after this date are protected for 70 years from the date on which they are published. Films are published when they are offered for sale or hire (eg. released for sale or hire on DVD or video).”*

And in an email from Roadshow:-

*“The general rule is that copyright in cinematograph films made on or after 1 May 1969 subsists for **70 years after the end of the calendar year of first publication**. Films made before 1 May 1969 are often still protected by copyright as a ‘dramatic work’ for the duration of the author’s life plus 70 years (if the author of the work died after 1 January 1955). Many classic films fall within this category as their authors (eg directors) died after 1 January 1955 and are therefore still protected by copyright. For example a film such as CASABLANCA which was first released in 1942 was directed by Michael Curtiz who died in 1962, hence we consider that the copyright in this film as a dramatic work will still subsist until 2032.”*

You will need permission to screen any film in public that is still protected by copyright. In practice this means that you will need to obtain permission for a screening. If there is no local distributor then you may need to contact the copyright owner or an international distributor who holds the rights for Australia.

It is also important to note that commercially purchased DVDs normally have a contractual restriction that states you must not screen the film in public. This contractual restriction is often found on the DVD cover or on screen at the start of the DVD. Once you get permission to screen the DVD, and pay a rights fee (if applicable) then that restriction is lifted for that one screening.

The Australian Copyright Council has written the following information Sheet (INFO031) “Films, DVDs, TV and streaming services: Screening in Public” which will give you more information. <https://www.copyright.org.au/browse/book/ACC-Films,-DVDs,-TV-&-Streaming-Services:-Screening-in-Public-INFO031>

## DURATION OF COPYRIGHT

This requirement relates to cinematograph films, except where a government owns or would have owned copyright.

The following table is an excerpt from Australian Copyright Council Information Sheet G023v14.

Type of material	Factors affecting duration	Copyright expired if	Otherwise, duration is
<b>Cinematograph films.</b> (Sound recordings accompanying films made before 1 May 1969 are separately protected, as are underlying works such as screenplays and music for all films)	Made before 1 May 1969 and regarded as "dramatic work"	Creator/s of film as dramatic work died before 1 January 1955.	Life of either creator of dramatic work or "author" of images (whichever is longer) + 70 years.
	Made before 1 May 1969 and not regarded as "dramatic work".	Made before 1 January 1955.	Life of "Author" of images within the footage + 70 years.
	Made on or after 1 May 1969	None.	Year first published + 70 years
<b>Literary, dramatic and musical works.</b>	Made public during creators life.	Creator died before 1 Jan 1955.	Life of creator + 70 years.
	Not made public during creators life.	Made public before 1 Jan 1955.	Year made public + 70 years.
<b>Sound recordings</b>		Made before 1 Jan 1955	Year first published + 70 years.

For further details please refer to the fact sheets available at the Australian Copyright Council website. <https://www.copyright.org.au/>

## FAIR DEALING

Fair dealing describes the extent to which an item may be copied for study or research without the copyright being infringed. There appear to be no circumstances in which a film society could claim "fair dealing" if a film is screened in its entirety, even if the film is discussed after screening.

Further explanation is available in the ACC information sheet G079.

## GETTING PERMISSION TO SCREEN

There is no single organisation that can give you permission to screen a video, film or DVD in public. In practice, you may need to approach the distributor of that material in Australia (or their agent) who can give you prior permission, on behalf of the copyright owners, to screen the film or video. Some of these are:

- A. Roadshow non-theatrical,
- B. Amalgamated Movies,
- C. Umbrella Entertainment.

The name of the distributor is normally shown on the DVD cover or on the credits or in [www.classification.gov.au](http://www.classification.gov.au), then you need to go to ACOFS Fact Sheet 3B at [www.acofs.org.au/resources/](http://www.acofs.org.au/resources/) for details of the appropriate agent and how to contact them.

Your local video library will NOT be able to grant permission to screen a video, film or DVD in public.

A TV broadcast channel normally has only broadcast rights, so will not be able to approve screening rights for anything you record off broadcast TV. This could also apply to a movie downloaded or streamed from an on-demand internet link from a TV channel.

## PUBLIC PERFORMANCE LICENCE (PPL)

Roadshow PPL offer blanket licences to organisations like cruise ships, motels etc, which

allow screening of a range of titles to their audiences. These are not applicable to film societies however.

## **CHURCH VIDEO LICENCES**

The Church Video Licence (CVL) is available from Christian Copyright Licensing International (CCLI), to any church or Christian Ministry organisation who wishes to publicly screen motion pictures, or part thereof, in their programs. Where a film society is specifically a Christian film society, or is an outreach ministry of a church, then CCLI would approve a CVL application for that organisation. Where a secular film society meets in a rented church hall, that society would be outside CCLI application guidelines.

The CVL grants permission to publicly screen copyrighted motion pictures and other licensed programs from any legally obtained source originally intended for personal, private, home use only, such as home videos and DVDs.

The licence covers over 370 production companies (producers) including many major studios. (But not all of them). For a complete list of producers who are affiliated with the licence, please see the Church Video Licence website. You can read the full terms of the agreement there as well. <https://au.cvli.com/>

CVL licences are usually not suitable for film societies, but if you wish to discuss whether the CVL can help, you are welcome to ring their office in Sydney on 1800 635 474 from 9-5 Mon – Fri. or email Mary Fisher [mfisher@ccli.com.au](mailto:mfisher@ccli.com.au) or website [www.ccli.com.au](http://www.ccli.com.au)

## **SEPARATE PERMISSION FOR MUSIC AND RECORDINGS ON THE SOUNDTRACK**

Generally, you need permission for the public performance and playing of music and sound recordings within the soundtrack of the film as well as permission for the screening of the film itself. Permission for the “public performance” of the musical work in a film is managed by OneMusic Australia. OneMusic Australia is a joint initiative of APRA, AMCOS and PPCA to simplify the music licensing process.

As a result of a special exemption in the Copyright Act, not-for-profit clubs and societies set up for charitable purposes (which includes affiliated film societies) will not need a licence to cover the music tracks in the films, provided any funds raised from screenings are not used for any purposes other than the organisation’s purposes.

All three of these organisations (APRA, AMCOS and PPCA) are now administered by Onemusic Australia. [www.onemusic.com.au](http://www.onemusic.com.au)

Incidental music played at a screening does need to be licenced but the venue in which the DVD, film or video is to be screened, should already be covered by a licence from Onemusic Australia. Check with your venue operator.

## **CONSEQUENCES OF UNAUTHORISED SCREENINGS**

Screening a film or video in public without permission will usually be an infringement of copyright.

A copyright owner who becomes aware of an infringement may take legal action, even up to six years after the infringement has occurred. They may seek orders from a court including orders for financial compensation which may be far in excess of that which may have been negotiated if permission had been sought beforehand.

A person who infringes copyright for commercial purposes may also be charged with criminal offences.

The distributor of a DVD or film for which copyright has been infringed may also withdraw that item from the non-theatrical libraries and refuse any further permission for screenings by any film society.

## **FURTHER INFORMATION**

Check out the Australian Copyright Council website for more information.  
[www.copyright.org.au](http://www.copyright.org.au)

The Copyright Council have many information sheets available for free download (limit one copy of each) on such topics as:

- A. Introduction to copyright in Australia – G10
- B. Duration of copyright – G23
- C. Films, DVDs & Streaming Services: screening in public – G31
- D. Owners of copyright: how to find – G51

- E. Research or Study – G053
- F. Film and Copyright – G069
- G. Fees and royalties for use of copyright material – G74
- H. Fair Dealing – G079
- I. Fair Use Myths – G91
- J. Screening in Class – G32
- K. And many others.

### **ACOFS SCREENING RIGHTS AGREEMENTS**

ACOFS has negotiated an agreement with most known DVD distributors in Australia in which film societies may seek prior agreement to screen their own copy of a DVD for which that distributor has copyright, and agree to pay that distributor or their agent a fixed (affordable) fee for those rights.

Further detailed information is available in **FVFS Information Sheet 12** and on Fact sheets produced by ACOFS and available on their website [www.acofs.org.au](http://www.acofs.org.au) .

Get the latest copy of this Information Sheet 12 from <https://fvfs.org.au/ideas/>

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