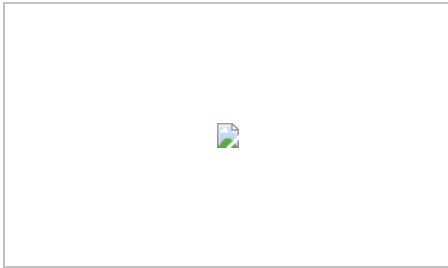
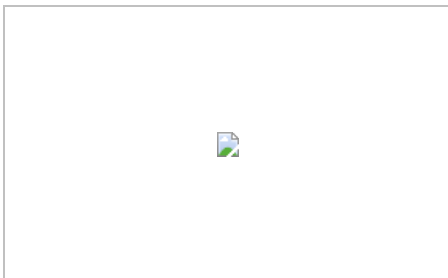


Academics and Copyright Issues: An Opinion

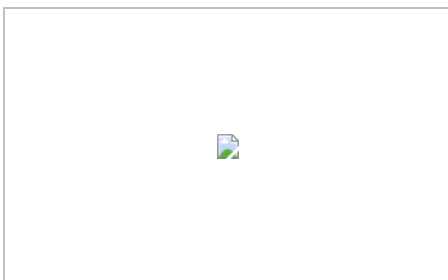
Academics at higher education institution are faced with various copyright issues on a daily basis. Three of these are:



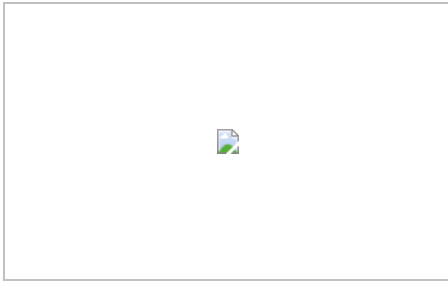
Depending on the arrangement between your institution and DALRO with regards to [reprographic licensing](#) the academic will either follow the reporting procedures for blanket licenses or the permission procedures for transactional licenses. Also as an academic you are faced with various considerations for publishing your research output with numerous journals and lastly, you have to share your course materials – whether it be exclusively with your students on a closed password protected site or in a more public web space such as your open departmental website. In the last two scenarios you have to be aware of your rights as a copyright holder and copyright user. For this post I will focus on the academic role as academic user and every copyright user needs to be aware of the copyright exceptions provided for in SA copyright law. Copyright exceptions are instances where users can use copyrighted materials without getting permission from the copyright holders.



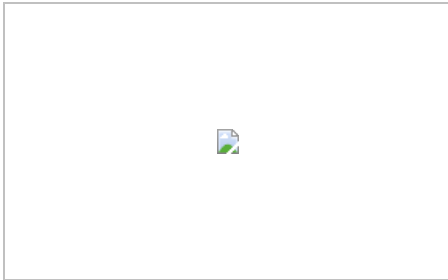
As mentioned [elsewhere on this site](#), fair dealing is not well defined in law, there exists no guidelines for determining fair dealing (instead its a value judgement made by the presiding judge) and what constitutes fair use differs from case to case. What we do know is that the exceptions listed in the Act has a condition – the source must be specified and the name of the author provided – a requirement rarely adhered to by many especially in regards to images. Because [copyright is an automatic right](#), it must be assumed in the first instance that anything on the internet is under copyright protection unless specified otherwise. So academics and anyone else copying images straight off the web without checking the permissions may be infringing copyright by placing these images in presentations or documents without the necessary references or acknowledgements. Besides being a legal requirement, it is also good practice to acknowledge your sources and give credit where it is due even if no one outside your lecture sees that presentation on that day. Placing presentations online opens up another can of worms since fair dealing, as set out in law, applies to illustrative use within the classroom. But what about the digital environment? What about using copyrighted images in presentations that are made available online – do you become the distributor of copyrighted materials and therefore a copyright infringer? What about e-learning environments and the concept of the online classroom? Can SA law be interpreted to include online learning environments in the definition of classroom in these exceptions?



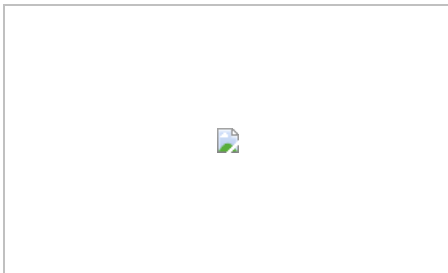
These questions cannot be answered satisfactorily and the copyright laws provides no meaningful clear guidelines to users as to the kinds of actions that are within the boundaries of the law. As a user one of the solutions is to use openly licensed materials such as Creative Commons licensed resources or any of the other licenses illustrated below:



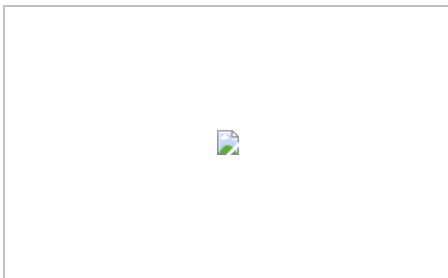
Each open license system has its benefits and depending on your usage needs, the purpose and context of the resources you wish to create – certain licenses will be better suited than others. Open licenses such as Creative Commons exist within the boundaries of SA copyright law and in fact it is based on the law – because without the exclusive rights granted via copyright law, Creative Commons as a management solution would not exist. There are an array of intellectual property rights and depending on your needs and your kind of work, these rights may or may not apply to you.



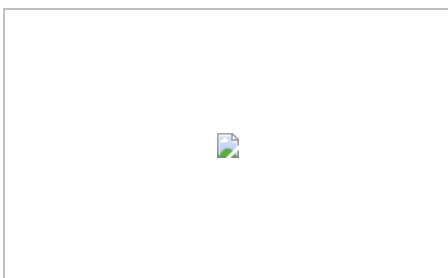
You can think of copyright law as an overarching circle of protection (see illustration below) around copyright holders and the immediate circle of protection is your institution's IP policy. The Creative Commons circle fits in neatly between those in cases where your institution has assigned copyright to you as the author of certain materials and it adheres to copyright law as it operates based on the exclusivity of the rights granted to copyright holders (in other words, you are free to grant permissions because you hold the rights). Creative Commons licenses are enforceable in a court of law and it acts as an explicit indication to others as to how your resource can be used – failure to adhere to the terms of the license will constitute copyright infringement and the violator can be held liable. So why would anyone want to share materials?



Well you can think of all your resources that you have right now on your desktop, flash drive or behind a password protected institutional learning management system – as being inside a big box, a closed box. Look at the illustration below and imagine that the arrows represents the Internet. Because your resources are in box, it is not discoverable, its not visible and it will do very little to contribute to the body of knowledge existing online for the benefit of others. Your resources are therefore not part of the process of discoverability on the Internet and the resources are being 'missed'.



When your resources are licensed in terms of Creative Commons and submitted to an open repository or directory however, they can easily be found, visibility and searchability are increased and it raises your online profile. Your resources then become part of the Internet and its all processes – picked up by search engines, data miners and aggregators and revealed to users seeking knowledge.



Through open licenses the box is opened and your materials are disseminated – for both the copyright holder and copyright user this system is a benefit. Many have written about the benefits of openness and has provided evidence of these benefits. Open licensing might not be the solution in every case but I want to raise your awareness that full copyright is not always the end of it all. There are alternatives to managing copyright and alternatives to using copyrighted images, audio and video. People need to be aware of the copyright exceptions that currently exist and make use of it. Criticism, review, reporting of current events, quotations – these are all copyright exceptions but you need to remember to provide the proper acknowledgements. By being aware of the limitations and exceptions of the law, you can be able to make better decisions and judgements about how you deal with copyright issues as an academic.

What do you think? Is there anything I should clarify? Feel free to comment, ask questions – interact and engage!

by Shihaam



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