

CAG Schools Supplementary Submission Senate Legal and Constitutional Affairs Committee Copyright Amendment Bill 2025

CAG Schools would be grateful if the Committee accepts this short supplementary submission to clarify some issues raised in submissions in relation to the capacity of schools to record lessons to enable students to access “catch up” lessons (as opposed to contemporaneous learning as contemplated in the *Copyright Amendment Bill 2025 (Bill)*).

As a reminder, CAG Schools requested the Committee to recommend an amendment to subsection 28(10) [Item 17] of the Bill to enable teachers to record lessons to enable students to watch recorded lessons at a later time.

Can schools already record lessons to enable “catch up viewing”?

The Attorney-General’s Department ([submission 4](#))¹ and the Copyright Agency ([submission 16](#))² stated that schools can already record lessons under the educational statutory licence. The Attorney-General’s Department stated: “*streaming of recordings of live lessons in which copyright material is performed to students to watch later (for example, as a catch-up lesson), which is remunerable under current licensing arrangements*”³, and Copyright Agency observed: “*Activities allowed include... capturing third party material in a recording of a lesson (e.g. a page of a book held up by a teacher)*”⁴.

However, **this is only partially correct**. Section 113P of the *Copyright Act 1968 (Act)*⁵ contains the educational statutory licence. Subsection 113P(1) contains the statutory licence for literary, dramatic, musical and artistic works. Subsection 113P(2) contains the statutory licence for broadcasts. This means that recording of lessons is permitted for works and broadcasts under the statutory licence – **but not for all other forms of copyright materials**.

Recording of lessons under the statutory licence

For works and broadcasts, making a recording of a lesson under the statutory licence also means that schools would have to pay a licence fee if they record a Zoom lesson where the teacher reads part of a book aloud, or show a segment from the ABC News – when section 28 permits the teacher to read the book or show the news article for free when done live in the classroom.

Teachers would also have to record their use of the copyright content under survey or other recording requirements under the statutory licence, increasing the administrative burden for teachers. This is not a trivial issue, and adds to the complexity as it is not clear *how* teachers should record this activity. CAG Schools and the Copyright Agency have been in the Copyright Tribunal for 4 years trying to resolve the appropriate method of data collection and record keeping.

Recording of lessons for other types of copyright materials

Forms of content that are **not** covered by the statutory licence include educational computer games, educational apps, YouTube clips (such as former Australian of the Year maths teacher Eddie Woo’s maths videos), films (including educational documentaries) and sound recordings.

¹ Attorney-General’s Department Submission to Inquiry into the Copyright Amendment Bill, November 2025 (**Attorney-General’s Department Submission**). Available at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Copyright_2025/Submissions.

² Copyright Agency Submission to Senate Legal and Constitutional Affairs Legislation Committee on Copyright Amendment Bill 2025 (**Copyright Agency Submission**). Available at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Copyright_2025/Submissions.

³ Attorney-General’s Department Submission, p 8.

⁴ Copyright Agency Submission, p 2.






⁵ Available at <https://www.legislation.gov.au/C1968A00063/latest/text>.

Schools may be able to rely on an exception in section 200AB of the Act to record a lesson where the teacher uses other forms of copyright materials. However, whether section 200AB applies requires a case-by-case analysis. It is likely that section 200AB would apply to allow a teacher to record a Zoom lesson if they want to show an Eddie Woo YouTube clip to students. It is less clear whether section 200AB would apply when the content can be commercially licensed - such as if the teacher wants to use a segment from a National Geographic documentary available on Disney+.

What happens if the Bill is not amended?


CAG Schools requests the Committee to carefully consider the real world implications for schools if the Bill is passed in its current form.



Scenario 1: A teacher plays 30 seconds from ABC News as part of a lesson

The teacher can play it to students in class under an exception (section 28 of the Act).	
The teacher can play it to students via Zoom as part of a class (section 28 as amended by the Bill).	Coming Soon... via the Bill 
The teacher is permitted to record and watch it later for catch up viewing under the private format shifting exception (section 111 of the Act).	
A student can record and watch the video later for research or study (subsection 40(2) of the Act).	
BUT if the teacher wishes to record the same segment of the ABC news as part of a lesson for students to watch later - a licence fee is payable under the statutory licence (subsection 113P(2) of the Act).	

This outcome makes no sense. Particularly when you consider the exact same activity would likely be permitted under section 200AB if the teacher played a YouTube clip instead of the ABC News clip.

Scenario 2: A teacher reads a paragraph of a book as part of a lesson

The teacher can read it to students in class under an exception (section 28 of the Act).	
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The teacher can read it to students via Zoom as part of a class (section 28 as amended by the Bill).	Coming soon... via the Bill 
BUT if the teacher wishes to record the lesson where part of the book is being read aloud for the non-commercial, educational benefit of students who missed the lesson, a licence fee is payable (subsection 113P(1) of the Act).	
COMPARISON – A commercial broadcaster could record part of a book being read for free under the fair dealing for reporting the news exception, but a school cannot do the same for a student who misses a lesson.	

What is the best policy outcome for Australian students?

Schools need one clear rule for remote learning that applies to all forms of copyright materials. Schools are allowed to use all forms of copyright materials when a teacher wants to ‘show or tell’ content as part of a lesson.

The suggested amendment to subsection 28(10) would merely ensure that if a teacher is allowed to use copyright materials in teaching via Zoom or Teams, they are also allowed to record the lesson for students to watch later. We have suggested significant protections for copyright owners – including password protection and a deletion requirement for the recordings – to ensure that the copies cannot be used in ways that harm copyright owner markets.

A correction - teacher reading does not harm book sales

The Attorney-General’s Department’s submission at page 8 says that delayed streaming or catch up of a class “has the potential to impact on existing legitimate market(s) in that a recording of the performance of copyright material(s) during a lesson could become a replacement for educational institutions purchasing the original copyright material(s).”⁶ With respect, we fundamentally disagree with this assertion.

If a teacher is reading a book to students, it is because they, or the school, has purchased a copy of the book. In no way would the act of reading a book that has already been purchased to a class of school children harm the market for further sales of that book. Nor would making a temporary recording of a lesson which included a few minutes of the teacher reading part of the book to the students taking part in the lesson.

Conclusion

CAG Schools submits that the evidence provided to the Committee by the Copyright Agency and Attorney-General’s Department is only partially correct. Schools cannot record lessons involving all kinds of copyright content under the statutory licence, and there is no other exception that clearly permits the recording of lessons for other content in all circumstances.

It also makes no sense that a school can use copyright content in a lesson delivered remotely to students live via Zoom, but it would require a licence fee if the Zoom lesson was temporarily recorded to enable students who could not attend live to watch it later.

CAG Schools requests the Committee to consider amending proposed subsection 28(10) to permit students to watch lessons both live and on-demand.

⁶ Attorney-General’s Department Submission, p 8.