

Copyright Agreement between the Commonwealth and CAL

Information sheet

The following sheet provides information about the copyright agreement between the Commonwealth and the Copyright Agency Limited (CAL). It consists of the following parts:

PART 1

What you need to do before **30 June 2003**; and

PART 2

- A. Overview of the agreement
- B. Subscribing to the agreement
- C. Responsibilities under the agreement
- D. Further information

The Agreement can be accessed at:

www.law.gov.au/copyright/CALCwthAgreement

PART 1 – What you need to do before 30 June 2003

What you need to do before **30 June 2003**:

- Fill out and sign the endorsement (Schedule 1 of the Agreement) – the endorsement needs to be signed by the appropriate officer;
- Send the endorsement to CAL and the Attorney-General's Department (see B1 following, for the relevant addresses);
- Advise CAL the addressee for them to send invoices; and
- Advise CAL of the contact officer for newspaper clips.

PART 2

A. OVERVIEW OF AGREEMENT

A.1 Why does the Commonwealth have a copyright agreement with CAL?

The Commonwealth has entered into an agreement with CAL in order to discharge its statutory obligations arising under Division 2 of Part VII of the *Copyright Act 1968* in relation to the copying and electronic transmission of copyright materials.

A.2 What is CAL?

CAL is the declared collecting society for government copying of print material. The relevant details of the declaration are included in the recitals of the Agreement. The declaration authorises CAL to collect and distribute remuneration from governments in relation to government copying of copyright material. The declared collecting society collects on behalf of all copyright owners, irrespective of whether they are members of CAL. Where a non-member's work has been copied, CAL must contact the copyright owner and invite them to become a member of CAL and thus distribute to them the remuneration. (Undistributed collections are held in trust for a number of years).

A.3 What types of copyright material are covered by the agreement?

The agreement covers:

- (i) photocopying and faxing of print material, ie books, journals and magazines;
- (ii) photocopying and faxing of newspaper clips and digital copying and communication of newspaper clips;
- (iii) copying of print music, ie sheet music; and
- (iii) making journal and magazine articles available on intranet sites (otherwise described as 'digital copying of print materials other than newspaper clips').

A.4 How is liability determined for the different types of copyright material?

Print material: The level of liability in relation to photocopying and faxing of print material is determined by way of surveys conducted by a statistician (AC Nielsen) in a representative group of departments and agencies for about 10 weeks approximately every 18 months. During a survey, officers in the relevant area of the department or agency being surveyed must keep records of all copying of books, journals and magazines. The purpose of the survey is to determine an overall level of copying by the Commonwealth and to identify whose works are copied to enable appropriate distribution of moneys collected. This information is scaled up to produce a notional number of pages per employee of each type of material. The results of up to four surveys are averaged to give a final \$ liability per full-time employee.

Schedule 2 of the Agreement sets out different page rates for different types of material. Schedule 10 describes how different types of material are allocated to these categories.

Newspaper clips: Liability in relation to photocopying, faxing, digital copying and communication of newspaper clips is determined from the information provided by a department or agency to CAL

on a quarterly basis in relation to its copying practices of newspaper clips. Further information about the process for providing this data is provided below at C.3.

Print music: Liability in relation to copying of print music is determined on the basis of the records provided by a department or agency to CAL of any copying of print music undertaken by the department or agency. Where a department or agency copies print music, it must keep a record of that copying in the form of Schedule 5 and forward that record to CAL at the end of each quarter.

Making print materials available on an intranet site: Liability in relation to digital copying of print materials excluding newspaper clips is determined by a set rate per Equivalent Full-time (EFT) employee for the financial years 2001–2004. The rate for 2001-02 is \$0.50 per full-time employee and \$1.50 per full-time employee for each of 2002-03 and 2003-04 (provision is made for a process of data collection on this type of copyright use for the purposes of negotiating liability for this use beyond June 2004).

A.5 What is the term of the agreement?

The agreement covers the period from 1 July 2001 (to cover the time since the expiry of the previous agreement) to 30 June 2006.

B. SUBSCRIBING TO THE AGREEMENT

B.1 How does my agency become a party to the agreement?

While the agreement is made between the Commonwealth (as represented by the Attorney-General's Department) and CAL, it is necessary for departments and agencies to individually subscribe to the agreement.

In order to subscribe to the agreement, your department or agency must:

- (i) complete and sign the Form of Endorsement. This is located in Schedule 1 of the agreement;
- (ii) send the signed Endorsement to CAL at the following address:

Copyright Agency Ltd
Level 19
157 Liverpool St
Sydney NSW 2000

Attn: Licensing Manager; and

- (iii) send a copy of the signed Endorsement to the Attorney-General's Department at the following address:

Attorney-General's Department
Robert Garran Offices
National Circuit
Barton ACT 2600

Attn: Assistant Secretary
Copyright Law Branch

A signed Endorsement has the effect of creating a separate agreement between the subscribing department or agency and CAL and incorporates the terms set out in the principal agreement. There is provision for additional terms to be agreed with CAL provided these do not increase the liability of other departments and agencies.

B.2 When does my agency need to subscribe to the agreement?

Endorsements should be finalised and provided to CAL by **30 June 2003**.

B.3 What is the situation if my agency was not a party to the previous agreement with CAL (ie the agreement from 1996 to 2001)?

The Agreement recognises that not all Commonwealth agencies elected to join the 1996 agreement (this is noted in the recitals to the Agreement). Amendments to the Copyright Act in 1998 require all Commonwealth agencies to participate. Provided that your agency constitutes the Commonwealth for the purposes of the Copyright Act, your agency is able to subscribe to the new agreement even if it was not a party to the previous agreement.

In cases where an agency was in existence prior to 1 July 2001 but was not a party to the previous agreement (nor had any other arrangement with CAL), the new agreement provides a mechanism for that agency to discharge its pre-2001 liability. In such cases, the agency will pay an extra amount being 1.5 times the amount paid for the 2001-2002 year for print copying of all copyright material, including newspaper clips. Agencies have the option to pay for their retrospective liability by either one lump sum payment or by three equal instalments paid over three years.

This provision in the Agreement recognises the existence of provision in the Copyright Act for CAL to represent owners in relation to copying undertaken prior to its being declared.

C. RESPONSIBILITIES UNDER THE AGREEMENT

As a subscriber to the agreement, your agency will need to comply in good faith with the terms of the agreement. It is the responsibility of the relevant officers in your agency to be familiar with the terms of the agreement and to ensure its implementation and compliance across the agency.

The principal obligations of a subscriber to the agreement include:

- (i) prompt payment of invoices (see C.1 and C.2 below);
- (ii) prompt and correct provision to CAL of data about copying of newspaper clippings (see C.3 below);
- (iii) good faith compliance with the survey process (see C.4 below);
- (iv) prompt and correct notification of the number EFT employees (see C.5 below); and
- (v) notification of various contact officers (see C.6 below).

Invoices

C.1 When will my agency receive invoices from CAL?

An indicative timetable for the issuing of invoices is provided in Schedule 11 of the Agreement. The Schedule is provided as a guide only. It is also attached to this information sheet for your convenience.

CAL will issue each department and agency with two invoices shortly after the agreement is signed:

- (i) invoice 1 will cover liability for newspaper clips from 1 July 2002 – 31 March 2003 (based on information CAL will seek from you); and
- (ii) invoice 2 will be for:
 - (a) photocopying and faxing of print material from July 2001 to June 2003;
 - (b) digital copying from July 2001 to June 2002;
 - (c) past copying (if applicable – see B.3); and
 - (d) newspaper copying from June 2001 to July 2002.

C.2 When do invoices have to be paid by?

All invoices must be paid within 30 days of issue.

Newspaper clippings

C.3 What must my agency do in relation to newspaper clips?*

(*Security agencies should make separate arrangements with CAL in relation to notification.)

If you use external media monitoring...

Where your agency uses an external press-clipping service (for example, Media Monitors), whose clips your agency copies or electronically communicates you will need to first authorise the press-clipping service to provide CAL with details of newspaper clips supplied, including the number of clips. CAL will then be responsible for obtaining those details from the press-clipping service. Your agency will then advise CAL, every quarter the distribution number, ie., the number of copies made of clips (if the distribution number for each clip varies, then the average number of clips distributed). You must also advise CAL of the name and contact details of the relevant officer in your agency for CAL to contact for details of the estimated number of copies made in the agency (See Schedules 3 and 4 of the Agreement).

If you do your media clips in-house...

Where your agency does not use an external press-clipping service but rather compiles and copies or scans newspaper clips 'in-house', your agency has two options. It may:

- (i) make arrangements with CAL as to a particular way of providing information about the details of the newspaper clips which are copied or scanned. A particular example

may be for the organisation to print an extra copy of clips, note the distribution number of the clips and then arrange for CAL to collect these copies; or

- (ii) provide CAL with the following information about the clips copied or scanned: title of the article; title of the newspaper; name of author, where known; name of publisher, where known; and date of publication. The information is to be provided by email to CAL within 14 days after the end of each quarter.

The agency which conducts an in-house press-clipping service must also advise CAL the name and contact details of the relevant officer in your agency for CAL to contact for details about the estimated number of copies made in the agency. Each quarter that person supplies to CAL the distribution number, ie., the number of copies made of clips (if the distribution number for each clip varies, then the average number of clips distributed (see examples in Schedule 4 of the Agreement)).

Surveys of copying of print material, excluding newspaper clips

C.4 What must my agency do in relation to surveys?

The agreement provides for surveys of copying of print materials excluding newspapers. As described above at A.4, surveys are to be conducted by a statistician (AC Nielsen) in a representative group of departments and agencies for about 10 weeks approximately every 18 months.

An agency that has been selected to be surveyed must nominate an employee at Senior Executive Service level or equivalent seniority to be the Survey Contact Officer. The Survey Contact Officer is responsible for ensuring appropriate cooperation and assistance to CAL or AC Nielsen in relation to:

- (i) training of staff of the organisation (training is provided by CAL and AC Nielsen);
- (ii) the effective conduct of the survey; and
- (iii) the resolution of any difficulties in the conduct of the survey.

Notification of EFT Employees

C.5 When does my organisation need to notify CAL of changes to EFT Employees?

An agency's EFT Employee number is one of the factors used to calculate an organisation's liability for print copying excluding newspapers.

The Form of Endorsement (Schedule 1) requires the provision of information about an agency's number of EFT Employees as at 30 June 2002. For the subsequent years of the agreement, agencies must notify CAL on or before 31 March in each year, the number of EFT Employees in the preceding year. (CAL has undertaken to provide an email reminder to agencies that EFT numbers are due.)

C.6 Contact Officers

There are various contact points in a department or agency that are needed to effectively manage the Agreement.

- (i) The CAL Agreement contact officer. This person has overall responsibility in the Agency for liaison and communications on the Agreement. (This is the person nominated in the Endorsement at Schedule 1.)
- (ii) The contact officer address for invoices. This may be the same or a different person to the Agreement contact officer.
- (iii) The contact officer for the quarterly information on newspaper clip usage.
- (iv) If your agency is surveyed, the Survey Contact Officer.

It is important to notify both CAL and the Attorney-General's Department where the details of a contact officer for the agreement change.

D. FURTHER INFORMATION

Enquiries about the agreement

Further enquiries about the operation of the agreement should be directed to:

Ms Angela Tsongas
Copyright Contracts Manager
Copyright Law Branch
Attorney-General's Department

Ph: 02 6250 6758
Fax: 02 6250 5929
Email: angela.tsongas@ag.gov.au

Information about copyright law

General information about copyright law can be located on the Attorney-General's Department website at: <http://www.ag.gov.au/copyright>

Information about CAL

Further information about CAL can be located on its website at: <http://www.copyright.com.au>

SCHEDULE 11

Indicative Listing of Time-line of Billing, Surveys and Review for CAL Agreement

* Subject to Print Music having been copied.

Time of Event	Event	Liability	Period covered	Explanatory notes (as to source of liability etc)
April - May 2003	Invoice 1	Newspaper clips	July 02 – March 03	Clause 6
May - June 2003	Invoice 2	A. Copying of print materials (including music) B. Digital C. Past copying D. Newspaper clips	July 01 – June 03 July 01 – June 03 Prior to July 01 July 01 – June 02	A. Clause 5; excludes liability for newspaper clips. Based on data from surveys 1-3) B. Clause 8 C. Clause 4.6; arises only for Participating Bodies which were not Parties to the previous agreement with CAL D. Schedule 4, Item 7
February -April 2003	Survey 4			
July – August 2003	Invoice 3	Newspaper clips	April - June 03	Clause 6
July 2003	Invoice 3(b)*	Music	Previous 6 months	Clause 7
July 2003	Review of Survey 4, Digital Review and Digital Newspapers.			To be completed by June 2004

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October – November 2003	Invoice 4	Newspaper clips	July-September 2003	Clause 6
January - February 2004	Invoice 5	Newspaper clips	October – December 2003	Clause 6
January 2004	Invoice 5(b)	Music	Previous 6 months	Clause 7
April 2004	Invoice 6	A. Print Copying B. Digital	July 03 – June 04.	A. Clause 5; excludes newspaper clips; based on data from surveys 1-4 B. Clause 8
April - May 2004	Invoice 7	Newspaper clips	January – March 2004	Clause 6
June 2004	A. End of review period. ends - 30 June 2004. B. Commencement of any amendments resulting from review. C. Expiry of term of agreement for Digital Copying and Communication of Newspaper Clips (30.6.04)			A. Clause 3.3 B. Clause 3.3 C. Clause 3.2.
July 2004	Survey 5 (tentative)			
July – August 2004	Invoice 8	Newspaper clips	April-June 2004	Clause 6
October – November 2004	Invoice 9	Newspaper clips	July -Sept 2004	Clause 6

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January 2005	Invoice 9 (b)*	Music	Previous 6 months	Clause 7
January – February 2005	Invoice 10	Newspaper clips	October – December 2004	Clause 6
April 2005	Invoice 11	A. Print Copying B. Digital	July 04 - June 05.	A. Clause 5; excludes newspaper clips; based on methodology to be determined by review. B. Clause 8
April - May 2005	Invoice 12	Newspaper clips	January - March 2005	Clause 6
July 2005	Invoice 15(b)*	Music	Previous 6 months	Clause 7
July – August 2005	Invoice 13	Newspaper clips	April - June 2005	Clause 6
July 2005	Negotiations for new agreement to commence			Agreement expires 30 June 2006
July 2005	Survey 6 (tentative)			
October – November 2005	Invoice 14	Newspaper clips	July - September 2005	Clause 6
January 2006	Invoice 14(b)*	Music	Previous 6 months	Clause 7
January – February 2006	Invoice 15	Newspaper clips	October – December 2005	Clause 6
April 2006	Invoice 16	A. Print Copying B. Digital	July 05 - June 06	A. Clause 5; excludes newspaper clips; based on methodology to be determined by review. B. Clause 8

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April - May 2006	Invoice 17	Newspaper clips	January – March 2006	Clause 6
July – August 2006	Invoice 18	Newspaper clips	April - June 2006	Clause 6
July 2006	Invoice 18(b)*	Music	Previous 6 months	Clause 7
30 June 2006	Agreement expires			Clause 3.1