|  |  |
| --- | --- |
|  | Guidance for the use of audio-visual works in online teaching |
|  |  |
|  | University of Glasgow LibraryNon-legal advice and Guidance7/26/21 |

Contents

[Executive Summary 2](#_Toc79679802)

[Introduction 3](#_Toc79679803)

[Making use of the Institutions ERA licence and subscription-based services 4](#_Toc79679804)

[Box of Broadcasts (BoB) 4](#_Toc79679805)

[Kanopy 4](#_Toc79679806)

[Request a streaming copy 4](#_Toc79679807)

[Showing a film to students in a class 5](#_Toc79679808)

[Could I show an entire film to a “virtual” class online? 5](#_Toc79679809)

[What about using clips (excerpts) of films and TV/Radio broadcasts? 6](#_Toc79679810)

[What’s the best practice for providing attribution (citation) for a film? 6](#_Toc79679811)

[Are there any measures I can take, to ensure the use is considered ‘fairer’ when making films available online? 7](#_Toc79679812)

[Advising students when making use of copyright protected works 7](#_Toc79679813)

[Linking to external content and YouTube videos 8](#_Toc79679814)

[YouTube 8](#_Toc79679815)

[Students trying to Access Content Overseas 9](#_Toc79679816)

[Box of Broadcasts 9](#_Toc79679817)

[YouTube 9](#_Toc79679818)

[Use of DVD’s 10](#_Toc79679819)

[Streaming a DVD from the Library’s collection 10](#_Toc79679820)

[Can I use my personal copy of a DVD in teaching? 10](#_Toc79679821)

[Technical Protection Measures (TPM) 10](#_Toc79679822)

[Video platforms to consider. 11](#_Toc79679823)

[Additional Resources 12](#_Toc79679824)

# Executive Summary

The purpose of this document is to provide non-legal guidance around the use of audio-visual materials (e.g., DVD, Films, Broadcast TV), when used in online teaching. This document sets out the appropriate sequence of inquiry that should be employed when trying to utilise audio-visual materials in online teaching, before examining the use of the UK Copyright Exceptions and DVDs. Below is a summary of key points that are found within this document.

* Before making use of the UK Copyright exceptions, examine the University’s subscription-based services Box of Broadcasts (BoB) and Kanopy, to determine if the Film/broadcast you are looking for is found in either of these platforms.
* BoB content is only accessible to staff/students based within the UK, in contrast to Kanopy which has global access for majority of content (note, due to licensing agreements certain films are only available for purchase in USA)
* The University does have an [ERA licence](https://era.org.uk/the-licence/), however there is no national licence which covers the digitisation of DVDs.
* If required, the UK Copyright exception [Illustration for Instruction](https://www.legislation.gov.uk/ukpga/1988/48/section/32), should cover showing the entirety or excerpts of films/broadcasts to enrolled students via a secure online platform (e.g. Zoom or Moodle), for non-commercial educational purposes (**making sure the content cannot be downloaded or copied**).
* When making use of the UK Copyright Exceptions, always refer to [Fair Dealing](https://www.gov.uk/guidance/exceptions-to-copyright#fair-dealing) to help ensure the use is indeed “fair” and doesn’t impact the rights holder
* In light of the pandemic, and limited access to the Library’s physical stock of DVDs academics could show excerpts or entire content from a DVD which they lawfully own to enrolled students for non-commercial teaching purposes. How this content is made available is at the academic’s discretion, the chosen environment should be secure, e.g., Moodle.
* Please refer to the section titled “Video platforms to consider”, when you’re considering how to make videos you produce available to a UofG student audience.
* When linking to external media sources (including YouTube), ensure they are legitimate sources and own the copyright, as ‘sign posting’ students to illegitimate sources could be interpreted as ‘communication to the public’.
* When providing attribution for using a film (in alignment with Illustration for Instruction), include, the title of the film, the directors, and producers.

# Introduction

The purpose of this document is to provide non-legal guidance on the various Copyright related issues you may encounter when looking to use audio visual material, such as films and television programmes in your teaching, particularly in an online environment. These uses may range from showing enrolled students an excerpt (clip) from a feature film or programme for teaching purposes or linking to a YouTube video.

This document does not provide guidance/tutorials on the technical aspects involved in the use of video, for example embedding a video clip in Moodle course or ‘burning’ a DVD. If you require help in relation to these types of activities, you will need to contact the appropriate professional services staff or department. Furthermore, there is no national licence for the digitisation of DVD’s, therefore the Library cannot offer a similar type of service as they do for digitising print-based media which is done in alignment with the Copyright Licencing Agency (CLA) licence.

**Before continuing onto the remainder of the document, please examine the key points below regarding its content:**

* The law surrounding the UK Copyright exceptions is open to interpretation, there is no binary ‘yes’ or ‘no’ answer as to how the exceptions can be applied.
* The text contained within this document should not been interpreted as instruction or dictation, but as guidance which you can choose to consider when you’re planning to utilise the UK Copyright exceptions for the purpose associated with this document.

# Making use of the Institutions ERA licence and subscription-based services

**The platforms detailed below should be investigated before making use of the UK copyright exceptions.**

## Box of Broadcasts (BoB)

The University of Glasgow’s [ERA](https://era.org.uk/the-licence/the-era-license/) (Educational Recording Agency) licence enables the recording of broadcast TV and radio for educational purposes: programmes are made available through a searchable database called Box of Broadcasts (BoB), which is available to UK based UofG staff and students. BoB is a video streaming service, which means videos can be viewed and embedded in platforms like Moodle and linked to, however they cannot be downloaded. For detailed information about BoB, please view the [terms and conditions](https://learningonscreen.ac.uk/ondemand/help.php/termsandconditions).

BoB works in tandem with the ERA, which has a geographic/region restriction of content only being available to staff and students who are physically based in the UK. If you are interested in finding out further information, you can find out more about ERA by visiting their [FAQ](https://era.org.uk/the-licence/frequently-asked-questions/).

UofG staff and students can access BoB, by using your GUID and associated password. For detailed information, with links to tutorials and the log in page, please view the [BoB information page](https://sway.office.com/kItJJIXkkue6qZuc). For further guidance about BoB’s functionality and how to embed content recorded using BoB into a Moodle course, please view this useful [20-minute video](https://edshare.gla.ac.uk/638/1/BoB%20online%20session%2011_03_2020.mp4) which goes over these areas.

## Kanopy

Another subscription-based video streaming service available to staff and students is [Kanopy](https://www.kanopy.com/), which has a wide range of documentaries and artistic films. This service can be accessed using your GUID and associated password. The Library currently only subscribes to The Criterion Collection and The Great Courses within Kanopy. Annual access to individual titles outwith these collections can be purchased by contacting your College Librarian.

## Request a streaming copy

If neither of the above platforms have the content you are looking for, then you could contact Reading Lists @ Glasgow. Providing the materials are being used for educational purposes, they can investigate if there is a streaming licence available for purchase. Please note, the Reading Lists team can only purchase streamed licences where available, they cannot help with providing excerpts of non-subscribed film.

# Showing a film to students in a class

Normally the UK Copyright exception [Section 34](https://www.legislation.gov.uk/ukpga/1988/48/section/34) would permit teaching staff to perform, show or play films to a student audience in a face – to – face environment (i.e., lecture theatre), during activities of the educational establishment. There would be no requirement to seek permission from the copyright owner, as the usage is for non-commercial educational purposes to enrolled students in a lecture setting.

# Could I show an entire film to a “virtual” class online?

There is debate amongst UK based copyright experts if section 34 could be used to show an entire film to an online class. The keys points of contention are around, if showing an entire film to a class of enrolled students would be perceived as a communication to the public or performance? Given this uncertainty it would be advisable to use [Illustration for Instruction](https://www.legislation.gov.uk/ukpga/1988/48/section/32) (section 32), **as this should cover showing an entire film to an online class of enrolled students** via a secure online platform, for example Zoom, MS Teams etc...

When making use of Illustration for Instruction, it is important to ensure the use is aligned to the factors listed below:

* The use must be non-commercial; and
* By an individual giving or receiving instruction (educational use); and
* Always accompanied by sufficient attribution (credit) to the creator of the work (however, such acknowledgment isn’t required where it impossible for reasons of impracticality); and
* Implement technical measures to ensure eth content cannot be downloaded or copied

Before making use of Illustration for Instruction, it is important to understand the doctrine which is associated with this and several the UK Copyright exceptions. [Fair Dealing](https://www.gov.uk/guidance/exceptions-to-copyright#fair-dealing) is a legal framework designed to allow the lawful use of work without having to seek permission from a copyright owner. The concepts of ‘fair’ and ‘unfair’ are not legally defined, however thanks to case law (a legal test), there are several lawfully identified measures such as, only use the amount of work required to fulfil your purpose, without impacting the rights holder ability to make money from their work.

***For further guidance relating specifically to using Films in online teaching during the COVID 19 pandemic, then please refer to*** [***Dr Emily Hudson’s paper***](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3667025)***.***

# What about using clips (excerpts) of films and TV/Radio broadcasts?

Before we examine using two of the UK Copyright exceptions, Box of Broadcasts and/or Kanopy should be examined to determine if the content you require is on either of these platforms.

In principle both Illustration for Instruction ([section 32](https://www.legislation.gov.uk/ukpga/1988/48/section/32)) and Criticism & Review ([section 30](https://www.legislation.gov.uk/ukpga/1988/48/section/30)), could both be used to defend the use of excerpts from films and TV/Radio broadcasts. This exception (30 CDPA) allows the use of any work (that has been made available to the public) for the purpose of criticism, review, quotation, providing there is sufficient acknowledgement. There is no clear guidance on what represents criticism and review. For the exception to apply the copying must truly be for the purposes of review and criticism and not purely for illustrative purposes. You must use your judgement and make sure you do not impinge the copyright owner’s right of exploitation. Quotes should be used as is necessary for the purpose.​

​Key points relating to this exception are:​

* ​Please note there is no Fair Dealing exception when quoting from unpublished material.​
* In contrast to s.32 Illustration for Instruction, there is no requirement that the use should be non-commercial.​

For more detailed information about the UK Copyright exceptions, please view this [self-paced learning object](https://edshare.gla.ac.uk/783/2/story_html5.html)

# What’s the best practice for providing attribution (citation) for a film?

[Section 178](https://www.legislation.gov.uk/ukpga/1988/48/section/178) of the CDPA stipulates the Film title, producers and directors should get credit when an attribution is produced. Although the title, producers etc... may be present in the film’s credits, it’s good practice to include a sperate note when the film is being shown, as this will help ensure compliance with Illustration for Instruction.

# Are there any measures I can take, to ensure the use is considered ‘fairer’ when making films available online?

When showing or making films available to your students online, the practical measures listed below, will in increasing the chances of your use being considered fair:

* Only show the amount required to fulfil your purpose, e.g., don’t show an entire 60-minute interview, if all you need is a 10-minute excerpt to illustrate your teaching point.
* The film (or clip) must be shown for educational purposes.
* Only enrolled students can access the film through a pass protected, secure environment like Moodle.
* When used, ensure the films are appropriately attributed
* The films are only made available when required, e.g., students can only access the film for a specific week and no longer, they can always be made available again. Resources can be hidden and shown again in platforms like Moodle, so this is another method of controlling the availability of films within this platform.
* Content should have measures in place to make sure it cannot be downloaded or recorded.

## Advising students when making use of copyright protected works

It is always advisable to advise students on the context when making use of copyright protected works, as this will not only establish how its being used but allow you the opportunity to establish how the content should be viewed and used. Below are some key points that you can advise students on:

* The content is being shown for purely educational purposes.
* The content (Films) cannot be copied or shared in any capacity, as it may constitute copyright infringement.
* The length of time the content will be available for
* The possible consequence of infringing copyright

In relation to any copyright protected content that is used, it would be good practice to monitor usage through platform of delivery, e.g., Moodle, BoB etc.., wherever possible.

# Linking to external content and YouTube videos

It is ill advised to link to online content that is not authorised, e.g., the person or body who uploaded it aren’t the rightsholder or don’t have permission from the copyright holder to do so. If copyright infringing content is linked to, it can be interpreted as ‘communication to the public’, even if your intent was to ‘direct’ students to resources. Best practice would be to, always double check the content you are linking to.

## YouTube

Similar to the above section, you must apply scrutiny when linking to or embedding content found in YouTube. This is due to users being able to upload content freely onto the platform, which in turn results in videos being uploaded without the copyright owner’s permission. You run the risk of copyright infringement if you were to share, link or embed an offending YouTube video. The methods listed below, will help mitigate the potential Copyright risks associated with using YouTube videos:

* Within YouTube, you can [filter a search](https://smartcopying.edu.au/how-to-find-creative-commons-material-using-youtube/) to produce only results that have a Creative Commons licence associated with them.
* If you choose to link, embed, or share a YouTube video, then ensure it’s from an official channel, e.g., BBC, CNN etc.
* Bodies such as [TED Talk](https://www.youtube.com/results?search_query=ted+talks), allow their content to be made available under a CC licence (please examine [Terms and Conditions](https://www.ted.com/about/our-organization/our-policies-terms/ted-talks-usage-policy)), which is suitable for an non-commercial, educational setting

# Students trying to Access Content Overseas

## Box of Broadcasts

As mentioned near the start of the document, the ERA licence (which BoB works in tandem with), is only available to those based in the UK.

By using the Illustration for Instruction Copyright exception, it should be permissible to stream audio/visual content to students overseas, providing the country in question has a similar framework to Fair Dealing. European countries and the US have ‘Fair Use’ which is a similar legal framework, and therefore should permit the streaming of content to students in those countries. It is always advisable to investigate the legal framework and law of the country you intend to stream content to, as some countries have strict laws around censorship, which may result in the students not being able to view the content. In which case, please contact the following email address, where we will offer what assistance we can in assessing the potential risks involved: copyright-queries@glasgow.ac.uk

## YouTube

If you are intending to use YouTube in your online teaching, then it’s worth noting YouTube is banned in China and other countries. According to YouTube’s [Terms of Service](https://www.youtube.com/static?gl=GB&template=terms), videos can only be shared by using their embedded player. This results in users not being able to download the video, and then convert to a different format for upload to Moodle, unless written permission was obtained from the copyright owner. It’s at this point, it would be advisable to consider the following factors, if you choose to make the YouTube content available to students in a country where the platform is banned:

* Is the YouTube video essential to your teaching; and
* If so, carry out a risk assessed approach that refers to Fair Dealing conditions; to
* Determine if the use of the video would be fair.

# Use of DVD’s

## Streaming a DVD from the Library’s collection

Due to the current lockdown restrictions and in alignment with Government guidelines, the Library is unable to assist in obtaining and/or “ripping” DVD’s for use in online and face-to-face teaching. You could consider contacting [Media Services](https://www.gla.ac.uk/myglasgow/leads/staff/media/) to seek further advice in relation to this area.

Written permission from the rights holders may be required to make use of the DVD(s). Obtaining permission can be a protracted process, ranging in length from several days to months. You should also check if the DVD in question is protected by security measures, as any copying would be deemed illegal (check “Technical Protection Measures section on following page for further information).

## Can I use my personal copy of a DVD in teaching?

Under normal circumstances DVD’s should be sourced from the Library’s collection. However, due to the current pandemic making it challenging to access such materials, it should be permissible for staff to use excerpts or the entire content from their own lawful copy of a film for non-commercial teaching purposes. If you choose to use your own DVD, then please read the section below regarding Technical Protection Measures, as these should be considered before accessing or copying your chosen film.

**Refer to the Fair Dealing & ‘advising students’ good practice on page 7 of this document, if you choose to make use of your own DVD.**

Technical Protection Measures (TPM)

Some media, such as DVD’s and e-books, are often protected by TPMs, also known as copy protection measures or DRM. These are in place to prevent unauthorised access or copying.

TPMs enable copyright owners a different method of offering content to consumers whilst preventing piracy. EU and UK Law protects the rights of copyright owners to employ such methods as TPMs to protect their work, any circumvention of such technology is illegal.

# Video platforms to consider.

The table below provides guidance on video platforms that you may wish to consider using when you are looking to make videos you produce available online. You can find further support by viewing this [UofG webpage](https://www.gla.ac.uk/myglasgow/anywhere/blendedteaching/video/), which provides tutorials on not only how to use video platforms, but how they can be used in conjunction with Moodle (the University’s VLE).

|  |  |  |
| --- | --- | --- |
| **Platform** | **Positives** | **Negatives** |
| Screen sharing (Zoom/Teams) | Easy to use.Synchronous / Real-time activityDiscussion optionsPlay DVDs directly | Requires high bandwidth connection (presenter and participants) Can be jittery, with dropped frames over long distances. |
| External Hosting (e.g., YouTube) | Distributed network, closers to users, easy to use | Advertising, not UofG platform, no access controls, not available in ChinaContent needs to be ripped or copied from elsewhere. |
| UofG Hosting (Medial / Echo360) | Links to Moodle, can control access | Content needs to be ripped or copied from elsewhere.Access issues for remote users |
| Kaltura | Cloud based, links to Moodle, access controls, can host near users (inc. China datacentres) | Content needs to be ripped or copied from elsewhere |
| Microsoft Stream  | A service that lets you upload, view, and share videos across UofG.  | Recordings in Microsoft Stream cannot be longer than 15 minutes. However, you can share and upload longer videos created using other tools to Stream. |

# Additional Resources

* [University of Glasgow Library Copyright guidance webpage](https://www.gla.ac.uk/myglasgow/library/help/copyright/guidance/)
* [Copyright User - website](https://www.copyrightuser.org/)
* [Copyright Basics - (Word document, click to download)](https://edshare.gla.ac.uk/id/document/2407)
* [Where to find copyright free images, audio and video - (Word document, click to download)](https://edshare.gla.ac.uk/id/document/2403)
* [Length of Copyright protected works (UK Law) – (Word document, click download)](https://edshare.gla.ac.uk/id/document/2412)
* [UofG IT Helpdesk - web page](https://www.gla.ac.uk/myglasgow/it/helpdesk/)
* [Getting Started with Zoom – web page](https://www.gla.ac.uk/myglasgow/anywhere/zoom/gettingstartedwithzoom/)
* [Learning Enhancement & Academic Development Service (LEADS) contacts](https://www.gla.ac.uk/myglasgow/leads/about/staffteams/)