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Guidance for the use of audio-visual works in online teaching

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# 1.0: Executive Summary

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](https://learningonscreen.ac.uk/ondemand)) and [Kanopy](https://www.kanopy.com/), 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. Moodle), for non-commercial educational purposes. **N.B., the UK copyright exception** [**section 30 (quotation, (1Za)**](https://www.legislation.gov.uk/ukpga/1988/48/section/30) **could potentially be used if your intended usage “falls” outside of illustration for Instruction.**
* 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
* If the university’s licences, services and collections don’t have the content you’re looking to use, then academics could make the choice to show excerpts or entire content from a DVD which they lawfully own to enrolled students for non-commercial teaching purposes. **This content should be made available through password protected online environments like Moodle, Zoom, Teams.**
* Please refer to the section titled “Video platforms to consider”, when you’re debating 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 also own the copyright, as ‘sign posting’ students to illegitimate sources could be interpreted as ‘[communication to the public’](https://www.legislation.gov.uk/ukpga/1988/48/section/20).
* When providing attribution for using a film (in alignment with Illustration for Instruction), include, the title of the film, the directors, and producers.

# 2.0: 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.

*N.B. thank you to* [*Dr Emily Hudson*](https://www.kcl.ac.uk/people/emily-hudson) *(Kings College London), who’s document (cited below), provided helpful and insightful guidance in relation to interpreting and understanding the UK copyright exceptions considering the pandemic and beyond.*

Hudson, Emily, Updated Copyright Guidance for Using Films, Audiovisual Works and Images in Online Teaching: Beyond the Covid Pandemic (February 24, 2022). Available at SSRN: https://ssrn.com/abstract=4042770 or http://dx.doi.org/10.2139/ssrn.4042770

# 3.0: Making use of the Institutions ERA licence, subscription-based services, and collections

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

## 3.1: 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://www.gla.ac.uk/myglasgow/library/help/boxofbroadcasts/). 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.

## 3.2: 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 out with these collections can be purchased by contacting your College Librarian.

## 3.3: 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.

## 3.4: Library’s Language Resource Collection

If you’re looking for foreign language films or documentaries, you should examine the Library’s Language Resource Collection (LRC), as 30 languages are represented. For further information about this collection and its location, please visit this [webpage](https://www.gla.ac.uk/myglasgow/library/collections/languageresourcelibrary/).

# 4.0: UK Copyright Exceptions

In this section we’ll examine how the UK copyright exceptions can enable copyright protected works to be shown to an enrolled student audience in either face – to face or online environments, without having to contact the right holder for permission. However, before using a UK copyright exception, you should determine if the work (film) you’re looking to use is available via an institutional licence (ERA) or service (e.g., [**Box of Broadcasts),**](https://www.gla.ac.uk/myglasgow/library/help/boxofbroadcasts/)? You could also explore if there’s a copyright free alternative, if none of these options provide a solution you could make the risk-based choice to use a UK copyright exception.

**Below we examine possible scenarios of how the UK copyright exceptions could be used, along with best practice.**

## 4.1: Showing a film to students in a face – to face class

The performance of literary, dramatic, and musical works can be delivered to an in-person audience consisting of teachers and students at an educational establishment under [section 34](https://www.legislation.gov.uk/ukpga/1988/48/section/34) (Performing, playing or showing work in course of activities of educational establishment). Sound recording, film (and broadcast), can be shown to an audience at an educational establishment for the purposes of instruction.

**N.B., persons, such as parents, friends of pupils or members of the public are classed as external to the institution. Therefore, if the university intended to include parents, friends of pupils or members of the public in the audience, when showing copyright protected work, it would have to obtain written permission from the rights holder to do so.**

**Any works shown to a face – to face audience, e.g., a film, must be a lawful/legal copy.**

## 4.2: Showing entire films (and excerpts), and or TV/Radio broadcasts to an online class of enrolled students

As discussed in the above paragraph, section 34 can be used to show an entire film to enrolled students in a face – to - face classroom setting, as it’s viewed as a performance to the public. However, using a film online may implicate other rights, given this uncertainty it would be advisable using [section 32](https://www.legislation.gov.uk/ukpga/1988/48/section/32) (Illustration for Instruction), and consider [section 30](https://www.legislation.gov.uk/ukpga/1988/48/section/30) (Quotation) (1ZA), if your intended use ‘falls’ outside section 32. For example, it may be more challenging to argue that support activities associated (e.g., social events) with a university are aligned to the educational use that is part of the Illustration for Instruction exception.

When using either of these copyright exceptions, it is important to ensure the use is aligned to the factors listed below:

**Section 32 Illustration for Instruction**

* The use must be non-commercial; and
* By an individual giving or receiving instruction (educational use); and
* Accompanied by sufficient attribution to the creator of the work (unless it is impossible for reasons of impracticality)

**Section 30 (Quotation) (1ZA).**

* The work must be available to the public (excluding unpublished work); and
* Do not use (quote) more than is required to fulfil your purpose; and
* Is subject to [Fair dealing](https://www.gov.uk/guidance/exceptions-to-copyright#fair-dealing); and
* Sufficient attribution to the creator is provided (unless it is impossible for reasons of impracticality)

**For both exceptions, implement technical measures to ensure the content cannot be downloaded or copied & make works (films) available through Moodle (or other password protected environment) to enrolled students.**

**Refer to section 4.4 (page 8), for additional measures that will aid in making the use of an entire film potentially be considered “fairer”.**

## 4.3: Fair dealing

Before making use of section 32 or 30, it is important to understand the legal framework which is associated with these and several other 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; and
* provide attribution to the creator (unless it is impossible to do so for reasons of impractically.

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

When showing entire films to your students online, the practical measures listed below, will potentially aid 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 password 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.
* Only lawful copies of content (films) can be made available to students

## 4.5: 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. This will help reassure copyright owners, that any questionable use will identifiable, and an appropriate response implemented.

## 4.6: 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 & Quotation.

# 5.0: Could I copy films from my Netflix or Amazon account, and show these to enrolled students online?

Despite any intended educational use, it would be ill advised to source media (films and other broadcasts) from staff’s personal Netflix or Amazon accounts. This use would not be considered “fair” (there’s case law to reflect this), as it would involve using someone else’s password and username to access the database. Copying films from either of these platforms would be received poorly by the courts.

**N.B., more information about Netflix’s one-time educational screenings of specific documentaries can be viewed in this** [**webpage**](https://help.netflix.com/en/node/57695)**.**

# 6.0: 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.

## 6.1: 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

# 7.0: Students trying to Access Content Overseas

## 7.1: 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

## 7.2: 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.

# 8.0: Use of DVD’s

## 8.1: Can I use my personal copy of a DVD for teaching online?

**N.B., before making use of your own DVD, remember and examine of the content you’re looking for can be located via the university’s licences, services, and collections e.g., BoB, Kanopy etc.**

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 (**to enrolled UofG students via Moodle, or another password protected environment**). If you choose to use your own DVD, then please read the section below regarding Technical Protection Measures (and copyright exceptions), as these should be considered before accessing or copying your chosen film.

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 this page for further information).

**Refer to the Fair Dealing & ‘advising students’ good practice on pages 8 & 9 of this document, if you choose to make use of your own DVD.**

8.2: 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 protect the rights of copyright owners to employ such methods as TPMs to protect their work, any circumvention of such technology is illegal.

# 9.0: 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

* [Copyright basics: What is Copyright (UK law), Fair dealing & Copyright Exceptions](https://edshare.gla.ac.uk/id/document/6718)
* [Copyright User - website](https://www.copyrightuser.org/)
* [Getting Started with Zoom – web page](https://www.gla.ac.uk/myglasgow/anywhere/zoom/gettingstartedwithzoom/)
* [Kaltura: using video in teaching (UofG)](https://www.gla.ac.uk/myglasgow/learningandteaching/video/kaltura/)
* [Length of Copyright protected works (UK Law) – (Word document, click download)](https://edshare.gla.ac.uk/id/document/6543)
* [Learning Enhancement & Academic Development Service (LEADS) contacts](https://www.gla.ac.uk/myglasgow/leads/about/staffteams/)
* [University of Glasgow Library Copyright guidance webpage](https://www.gla.ac.uk/myglasgow/library/help/copyright/guidance/)
* [UofG IT Helpdesk - web page](https://www.gla.ac.uk/myglasgow/it/helpdesk/)
* [Where to find online copyright free sources for images, audio and video (Word document)](https://edshare.gla.ac.uk/id/document/6536)