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# Confidence with Copyright: The Copyright Card Game

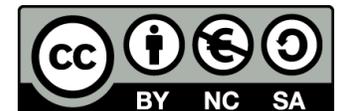
John MacMillan & Anne Chard

20<sup>th</sup> June 2017



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# Copyright the card game

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# Introductions

- Decide on your team name
- Collective years experience in copyright



Image from [Pixabay](#) / [CC0](#)



## Question

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**How do you feel when the issue of  
copyright is raised?**



## Question

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**Do you know where and how to source  
copyright compliant images or resources?**



## Question

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**What support would you like from the University in relation to copyright?**



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# Pub quiz



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# What is copyright?



- Q. What is the legislation?
- A. Copyright, designs and patents act 1988, as amended and revised



# What is copyright?



- Q. What does copyright provide creators with?
- A. Copyright gives certain exclusive rights to the owner of a work to incentivise and reward creativity



# What is copyright?



- Q. Does copyright protect ideas?
- A. No, copyright does not protect ideas but the way they are expressed.



# What is copyright?



- Q. What tests must a copyright work pass?
- A. For a work to be subject to copyright it must be original, 'fixed' and show skill/judgement by the creator(s).



# What is copyright?



- Q. What sort of content does copyright protect?
- A. Copyright covers all different types of content (text, images, sound, moving images etc.)



# What is copyright?



- Q. Do copyright works need to be registered?
- A. No, copyright protection is automatic as soon as the work is 'fixed'.



# What is copyright?



- Q. Do works need a “©” in the UK to be protected?
- A. No, copyright works don’t need a “©” in the UK to be protected, but it helps.



# Copyright: the game

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- The aims:
- To explore copyright
  - 1) Works
  - 2) Usages
  - 3) Licences
  - 4) Exceptions

# The game: rules



- ♠ Each round will focus on one 'suit'
- ♠ Each team will have one deck of cards
- ♠ Each team must nominate a card handler
- ♠ Answers to the scenarios are given by placing your cards on the table
- ♠ Teams will be given the opportunity to confer and agree answers



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# Works



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# Why consider types of Copyright work?

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- © Different durations
- © Different layers of rights
- © Different owners within content
- © Different licences
- © Some exceptions work specific



# Copyright works (1)

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- Literary



- Artistic



- Musical



- Dramatic



- Broadcast



- Sound Recording



- Film

## Copyright works (2)

Æ • Typography

Ⓟ • Public Domain

🗄️ • Database

👤 • Moral Rights

🎤 • Performance

💡 • Non-Qualifying

Work related



## The game: round 1



- Use your “Work” cards to identify what types of works are in the following:
  1. The novel ‘2001: A Space Odyssey’ by Arthur C. Clarke (published 1968)
  2. An episode of The Simpsons
  3. This workshop on Copyright the Card Game
  4. ‘Macbeth’ by William Shakespeare (published 1623)
  5. ‘Death of a salesman’ by Arthur Miller (published 1949)



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# Usages



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# Why consider types of Copyright usage?

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- © They are the CDPA 'restricted acts' as defined in law
- © The 'restricted acts' must be 'mapped' onto any activity to understand licences and exceptions available



# Copyright usages

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**Copying**



**Issuing copies to the public**



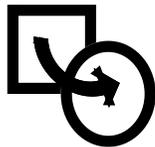
**Renting or lending to the public**



**Performing, showing or playing in public**



**Communication to the public**



**Adaptation**



## The game: round 2



- Using your “Usage” cards, decide what types of usage apply in the following four scenarios.



## The game: round 2



- What types of usages apply?



- 1. A café owner turns on a radio for her customers



**Communication to the public**



**Performing, showing or playing  
in public**



## The game: round 2



- What types of usages apply?



- 2. A blogger uploads a picture to his blog



**Copying**



**Communication to the public**



## The game: round 2



- What types of usages apply?



- 3. A writer creates short stories based on characters from a TV programme



**Adaptation**

## The game: round 2



- What types of usages apply?



- 4. A tourist takes a photo of a statue on public display

**No copyright infringement – see  
S.62 of the CDPA**



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# Licences



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# Why consider types of Copyright licence?

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- + First point of call
  - + Can effectively provide zero risk
  - + May already have paid for them
- They all involve limitations
  - Not carte blanche
  - Relationship with exceptions



# Copyright licences (1)

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Copyright  
Licensing  
Agency

**CLA (Copyright Licensing Agency)**

Newspaper  
Licensing  
Agency

**NLA Media Access**

Educational  
Recording  
Agency

**ERA (Educational Recording Agency)**



**Filmbank / MPLC**



**Library E-resources**



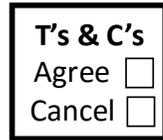
**Creative Commons / Open Licences**



# Copyright licences (2)



**'Bespoke' permission**



**Website Terms and Conditions**



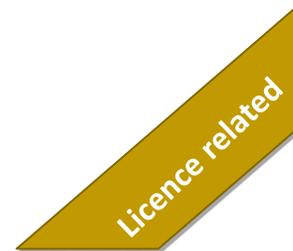
**IPO Orphan Works Licensing Scheme**



**You made it yourself**



**You work for / in collaboration with rights holder**



## The game: round 3



- Using your “Licences” cards, decide what types of licences apply in the following scenarios?



# The game: round 3



- What types of licence might apply?

Copyright  
Licensing  
Agency

Newspaper  
Licensing  
Agency

Educational  
Recording  
Agency



T's & C's  
Agree   
Cancel

Intellectual  
Property  
Office



- 1. Creating copyright guidance for the educational establishment you work for and making it available to others to reuse and build upon



**You work for / in collaboration with rights holder**



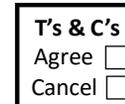
**Creative Commons / Open Licences**



# The game: round 3



- What types of licence might apply?



- 2. Taking extracts of published literary works and uploading them onto a university VLE for the use of registered students



**CLA HE Licence**



**E-Resource Licence?**



**NLA Licence?**



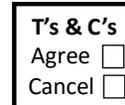
**CC or Open Licence?**



# The game: round 3



- What types of licence might apply?



- 3. Providing authorised students in the UK with online access to off-air recordings made by a university audio-visual department



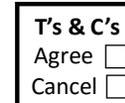
**ERA (Educational Recording Agency)**



# The game: round 3



- What types of licence might apply?



- 4. Showing a series of obscure feature films to members of a university film club



**Filmbank / MPLC / BFI?**



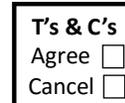
**'Bespoke' permission**



# The game: round 3



- What types of licence might apply?



- 5. Digitising a collection of now defunct early twentieth century historical society annual reports



**'Bespoke' permission?**



**IPO Orphan Works Licensing Scheme**



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# Exceptions



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# Disclaimer

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- The following slides are intended to give an overview of the key UK copyright exceptions for those in higher education institutions. They are not comprehensive, nor do they provide full details of the provisions within the relevant legislation (most notably [Copyright, Designs and Patents Act 1988](#)).
- The slides are for information purposes only and do not constitute formal legal advice.
- If you find anything in the slides which appears to be inaccurate or misleading please contact @cbowiemorrison.



# Hargreaves recommendations



**Rebalance Copyright Regime**

**Format Neutral**

**Future Proof**

**Representative of Digital Practice  
and Potential**

**Evidence Based**



# Hargreaves timeline



# Fair dealing



- Determines whether usage is lawful or infringing based on how a ‘fair minded and honest person’ would deal with the work.
- 🏏 Does using the work affect the market for the original work? Does it affect or substitute the normal exploitation of the work.
- 🏏 Is the amount of the work taken reasonable and appropriate? Was it necessary to use the amount?



# Research and Private Study – S.29



Allows individuals to make single copies of limited extracts of copyright works for non-commercial research or private study. No contractual override.

## Before 1 June 2014

- Ⓒ Limited, 'fair dealing'
- Ⓒ Non-commercial
- Ⓒ Literary, dramatic, musical and artistic works only
- Ⓒ Contractual terms can override exception

## After 1 June 2014

- Ⓒ Limited 'fair-dealing'
- Ⓒ Non-commercial
- Ⓒ All copyright works including sound recordings and films
- Ⓒ No override by contract



## Text and Data Mining – S.29A



- 🗑️ New exception
- 🗑️ Use of algorithms to determine relationships in data
- 🗑️ Non-commercial use
- 🗑️ Requires legitimate subscription/access to dataset
- 🗑️ No contractual overrides



# Quotation (Criticism and Review) – S.30

“”

Allows ‘fair dealing’ usage of quotations for any purposes including ‘criticism and review’. No contractual override.

## Before 1 October 2014

- “” Criticism & review does not cover ‘illustrative’ use
- “” Works must already have been made publicly available

## After 1 October 2014

- “” Widened to cover any reasonable quotation, legitimising academic practice
- “” Must have been made publicly available



# Copying for disabled users – S.31 A & B



Allows copying to provide equal access to copyright works for users with any type of physical or mental disability. On either an individual (S.31A) or institutional (S31.B) basis. No contractual override.

## Before 1 June 2014

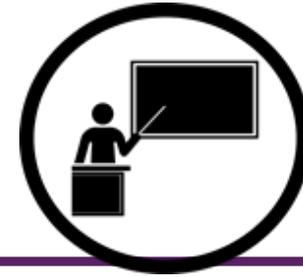
- ♿ Restricted to people with visual impairments only
- ♿ Literary, dramatic, musical or artistic work
- ♿ Contractual override

## After 1 June 2014

- ♿ Widened to all impairments which prevent equal access
- ♿ All types of copyright work
- ♿ No contractual override
- ♿ Doesn't address DRM/TPM measures



# Illustration for instruction – S.32



Allows limited, non-commercial 'fair dealing' use of copyright material for the purposes of teaching. No contractual override.

## Before 1 June 2014

- Ⓜ Non-reprographic copying of literary, dramatic, musical and artistic works only
- Ⓜ Wide examination exception (not music)
- Ⓜ Sound recording/film exception
- Ⓜ Acknowledgement required if practical

## After 1 June 2014

- Ⓜ Must be fair dealing
- Ⓜ Copying can be reprographic
- Ⓜ Examination exception narrowed ☹
- Ⓜ Covers all copyright works including sound recordings, films and broadcasts



# Recording of Broadcasts – S.35



Allows recording of off-air broadcasts by or on behalf of educational establishments for non-commercial purposes. Only applies where no licensing scheme (i.e. ERA) available.

## Before 1 June 2014

- Ⓞ Non-commercial educational use
- Ⓞ 'Communication to the public' premises limitation
- Ⓞ Dove-tails with ERA licence

## After 1 June 2014

- Ⓞ Non-commercial educational use
- Ⓞ 'Communication to the public' off premises via secure electronic network
- Ⓞ Dove-tails with ERA licence



# Educational Copying and Use of published Extracts - S.36



Allows copying and use of multiple copies of extracts from published copyright works. Only applies where no licensing scheme (i.e. **CLA**) available.

## Before 1 June 2014

- Non-commercial
- ≤1% per work, per quarter, per institution
- Covers typographical arrangement
- Dove-tails with CLA licence

## After 1 June 2014

- Non-commercial
- ≤5% per work, per year, per institution
- Includes incorporated works (e.g. illustrations)
- Dove-tails with CLA licence



# Making Works Available on Dedicated Terminals – S.40B



- ❏ New exception
- ❏ Relates to a publicly accessible library, educational establishment, museum or archive
- ❏ Allows collection items to be digitised and viewed on site through ‘dedicated terminals’
- ❏ Works must have been lawfully acquired
- ❏ For research or private study
- ❏ Access must be compliant with licensing terms if they exist



# Library Copying for Other Libraries – S.41



Allows supply of copies of the whole or part of any published work from one library to another. No contractual override.

## Before 1 June 2014

-  Supply of a journal article or whole or part of literary, dramatic or musical work
-  Includes illustrations in context
-  Contractual override

## After 1 June 2014

-  Supply of journal article or whole or part of *any* published work
-  Will include sound recordings, films and broadcasts
-  No contractual override



# Preservation – S.42



Allows libraries, archives and museums to make copies of items in their permanent collection. No contractual override.

## Before 1 June 2014

- 🏠 Single copy of item in permanent collection
- 🏠 Literary, dramatic or musical work
- 🏠 Includes illustrations and typographical arrangement
- 🏠 Contractual override

## After 1 June 2014

- 🏠 Copy an item in permanent collection
- 🏠 All types of copyright work including sound recordings, films and broadcasts
- 🏠 Items not publicly accessible or available on loan
- 🏠 No contractual override



# Library Copying for Patrons – S.42A



Allows libraries to make a single copy of reasonable proportions of copyright works for their patrons for non-commercial research and private study. No contractual override.

## Before 1 June 2014

- 📖 'Prescribed' libraries
- 📖 Non-commercial research or private study
- 📖 Article in a periodical or part of literary, dramatic or musical work
- 📖 Declaration form
- 📖 Patron must pay cost of supply
- 📖 Contractual override

## After 1 June 2014

- 📖 Not-for-profit library
- 📖 Non-commercial research or private study
- 📖 Reasonable proportion of any copyright work
- 📖 Declaration still required but not through set form
- 📖 Patron does not have to pay cost of supply
- 📖 No contractual override



# Library Copying of Unpublished Works – S.43



Allows librarians to make a single copy of whole or a part of an unpublished work for their patrons for non-commercial research and private study.

## Before 1 June 2014

- Literary, dramatic or musical works only
- Work must not have been published prior to deposit
- Copyright holder must not have prohibited copying
- Single copies only may be provided

## After 1 June 2014

- All types of copyright work
- Work must not have been published prior to deposit
- Copyright holder must not have prohibited copying
- Single copies only may be provided



# Orphan works Exception



- ② Orphan Works = works where the rights holder is unknown or untraceable.
- ② Previously required a 'risk-managed' approach.  
Now:
  - ② UK Orphan works Licensing Scheme
  - ② EU Orphan Works Directive 2012/28/EU
- ② Implemented in the UK on 29 October 2014



# Orphan Works



## UK LICENSING SCHEME

- ② Covers all types of Orphan Work (inc photographs)
- ② Commercial and non-commercial use
- ② Anyone can take a licence out
- ② Requirement for reasonable searches
- ② Operated by [the IPO](#)
- ② 7 year licence term / UK only

## Orphan works exception

- ② Covers all text and audio visual works (but not artistic unless embedded)
- ② Non-commercial use
- ② Applies to cultural and educational organisations
- ② Reasonable searches recorded on a database
- ② No geographical restriction or time limit





## Non-contractual override



- “To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.”
- [Copyright, Designs and Patents Acts 1988](#)



## The game: round 4



- The final round uses all the cards:

 'Works'

 'Usages'

 'Licences'

 'Exceptions'

 'Risk'



# The game: round 4



- The Rules:
  1. Consider the following scenarios within your teams
  2. Play the relevant 'Works', 'Usage', 'Licences' and 'Exceptions' cards
  3. Choose a level of risk from 0 to 5 and play the corresponding card



## The game: round 4



- 1. You are a lecturer at a university and you have identified a chapter in the book “A History of Greece” by Nicholas Doumanis (ISBN 9781137013675) that you want to include in your digital course reading pack. The course reading will be available on your institutional virtual learning environment (VLE). Your university library has the item in physical stock, but it is not available as an e-book.



## 5. A HISTORY OF GREECE

ISBN: 9781137013675

Publication Type: Book

Publication Form: Digital

Publisher: Palgrave Macmillan Higher Education

Country of Publication: United Kingdom of Great Britain & N. Ireland

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# The game: round 4



- 1. Book chapter

W



0



U

Copyright  
Licensing  
Agency

L



## The game: round 4



- 2. A lecturer wants to reproduce an extract of approximately 10% of an unpublished letter written by a famous literary figure in 1953. She wants to include it in a student pack, which she is creating to accompany a philosophy course and the extract has been chosen because it reinforces a key point about the literary figure's views on art and technology. The lecturer wants to include the extract in a PowerPoint presentation and upload the PowerPoint slides, including the extract, to the university's VLE.



# The game: round 4



- 2. Unpublished letter

W

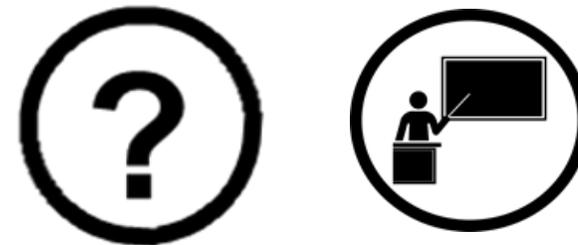


U



1

“”



L



## The game: round 4



- 3. You are creating an Open Educational Resource on architecture and want to include a photo of a Frank Lloyd Wright (d.1959) building you find on a blog. The blogger has not identified who took the picture, or where it came from and attempts to make contact with them have resulted in no response.



# The game: round 4



- 3. Open Educational Resource

W



U

5



“ ”



L



## The game: round 4



- 4. You are a lecturer in a university teaching students economics, exploring the causes of the financial crisis.
- a) You find some charts and a useful infographic produced by the World Bank on their website. You wish to include these in your PowerPoint slides that you will use in the lecture to explore some of the possible causes of the crisis and the impact it had in specific countries.

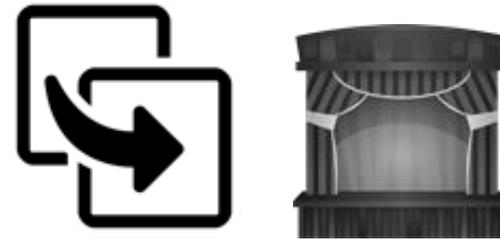


# The game: round 4



- 4. a) Infographic in lecture slides

W



U

1

T's & C's	
Agree	<input type="checkbox"/>
Cancel	<input type="checkbox"/>



L



## The game: round 4



- 4. Economics lecturer using an infographic produced by the World Bank.
- b) You usually upload your slides to the university's VLE to make them available to students on the course after the event. You would like to do this, as well as recording the lecture via your institutional recording service so it will be available to students for revision and studying purposes.**

# The game: round 4



- 4. b) Infographic in lecture recording on VLE

W



U



2

T's & C's	
Agree	<input type="checkbox"/>
Cancel	<input type="checkbox"/>



L



## The game: round 4



- 5. You have been approached by a researcher who wants a copy of a photograph from a defunct newspaper in your library collection. The title ceased publication before the Second World War and it is unclear who now holds the copyright in it. The edition featuring the required photograph is from 1911 and there is no indication in the publication of who the photographer was.



# The game: round 4



- 5. Photograph from defunct newspaper

W



0



U

L



## Our 3 top tips

1. First start by considering the works and usages
2. Then consider licences and if there are none that apply, look at exceptions.
3. You will always need to make a risk assessment. If relying on exception consider what is 'fair'.



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# links

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- [IPO Guidance on changes to the law](#)
- [Copyright, Designs and Patents Act 1988](#)
- [Unofficial Consolidation of CDPA 1988](#)
- Statutory instruments for:
  - [Research, Education, Libraries and Archives](#)
  - [Quotation and Parody](#)
  - [Disability](#)
  - [Public Administration](#)
  - [Personal Copies for Private Use](#)
- [Library and Archives Copyright Alliance](#)
- [JISC Legal guidance](#) (archived)
- [Copyright Hub](#)
- [Copyrightuser.org](#)

