

Parody, Satire and Comedy

In this fact sheet, we discuss how Australian copyright law applies to humorous material such as parody, satire, jokes and caricatures.

Our [Copyright Essentials](#) book provides in-depth guidance on the provisions of the *Copyright Act 1968* (Cth) (**Copyright Act**) set out in this fact sheet. It is available for purchase from our [website](#). Information about our education programs is available [here](#).

This fact sheet gives general introductory information about copyright. If you need to know how the law applies in a particular situation, we recommend seeking legal advice.

Key points

- The idea behind a joke is not protected by copyright; however, the written or recorded words, or footage and sound recordings in which someone tells a joke, may be protected.
- The fair dealing exceptions in the Copyright Act allow people to use copyright material for the purpose of parody or satire, provided use of the material is also fair.
- Reproducing humorous material, changing lyrics to songs or treating material in a humorous way will not necessarily be a fair dealing for parody or satire and so may require permission.

1. Are jokes protected by copyright?

Copyright does not protect ideas; copyright protects the expression of ideas. For an idea to become expressed it must be substantial, original (not simply copied from somewhere else) and in a 'material form' (such as in writing, an audio-visual recording or a digital file).

So, comic material may be protected by copyright where for example, a joke that you have independently created takes the form of a story, or a stand-up comedic routine. It will be protected by copyright as a 'literary work', provided it has been written down, filmed or recorded in some other way.

Other jokes such as puns, one-liners or cartoon captions may not be substantial enough to be a literary work protected by copyright. Where a word or phrase is too insubstantial to be protected by copyright, other subject matter such as a video of the delivery of a joke or cartoon imagery (an artistic work), may be protected, but the joke as told or written may not be protected. See our [An Introduction to Copyright in Australia](#) for more detail.

Copyright does not protect the idea behind a joke, such as tropes, stereotypes, situations or observations. For example, the idea that Australians are larrikins has given rise to many jokes, skits and cartoons. A person who uses this idea as the basis for a joke or cartoon does not infringe copyright. However, they might infringe copyright if they copied the way someone else has worked that idea into words or a script, song, cartoon or animation.

2. When is permission needed to use copyright material for comic purposes?

Generally, you need permission from the copyright owner if you want to use all or a 'substantial part' of copyright material in one of the ways exclusively reserved to the copyright owner, including reproducing it, communicating it to the public and performing it in public. A substantial part is a distinctive, important or essential part of the copyright material; it may be a very small proportion of the work from which it is taken.

Copyright is not infringed if copyright has expired or a special exception to infringement applies. See our [Permission: Do I Need It?](#) fact sheet for more information.

3. The fair dealing exceptions

The Copyright Act sets out exceptions to infringement where copyright material is being used for specific purposes. The exceptions that are likely to be relevant in the context of humour are the fair dealing exceptions for parody or satire, criticism or review and reporting news. These provisions allow you to use copyright material for specified purposes, provided the use is also fair (e.g. you do not use more of the work than is needed for that purpose).

Note however, that although you may seek to rely on a fair dealing exception, it does not make you immune to copyright infringement. That is, a copyright owner may disagree with your reliance on a fair dealing exception and still bring an action for copyright infringement if they choose. For an overview of the fair dealing exceptions see our fact sheet [Fair Dealing: What Can I Use?](#)

4. Parody or satire

You can use the whole or a substantial part of copyright material for the purpose of parody or satire without permission, provided your use is fair.

The terms 'parody' and 'satire' are not defined in the Copyright Act. Courts in Australia have considered various definitions of, and distinctions between, parody and satire.

In general terms:

- a **parody** is, in essence, where a work is imitated or evoked (often in a humorous way), revising and altering it, resulting in an original work. The imitation may include parts of the original work. In some cases, a parody may not be effective unless parts of the original are included. The purpose of a true parody is to make comment on the imitated work or on its creator. Although humour is often an important part of a parody, a parody is not necessarily humorous, and
- a **satire** is a form of ironic, sarcastic, scornful, derisive or ridiculing criticism of vice, folly or abuse, which is not by way of an imitation or take-off – satire involves the drawing of a distinction between the satirist and the author or creator of the work. The purpose of **satire**, is to draw attention to characteristics or actions – such as vice or folly – by using certain forms of expression (e.g. irony, sarcasm and ridicule). So, rather than being an imitation (like parody), satire involves drawing a distinction between the satirist and the creator of the original work.

Political cartoons are good examples of works that use parody and satire.

The fair dealing exception for the purpose of parody or satire can only be relied on if parody or satire is the primary purpose behind the dealing with the copyright material. While a work might be seen as humorous, satirical or parodic, it is not enough to have elements of parody or satire when the purpose is purely commercial.

5. 'Fair'

As with all fair dealing exceptions, it is also necessary to consider whether the dealing is 'fair' in all the circumstances. The factors that may be considered by courts include:

- how much of the copyright material is used
- the context in which the parody or satire is used
- the necessity of the copyright material's use in the work
- usually, the court will consider whether the material can be obtained within a reasonable time and at an ordinary commercial price. This is very difficult in a parody or satire case.
- whether there is a significant adverse effect on the original work (financial or otherwise), and
- whether there is a significant adverse effect on the original artist (financial or otherwise).

6. Moral rights

Creators of copyright works have moral rights in their works, whether or not they own copyright in them. These rights are separate from the economic rights of copyright and impose certain obligations on people who use a copyright work. A creator has the right:

- to be attributed (or credited) for their work (the 'right of attribution')
- not to have their work falsely attributed (the 'right against false attribution'), and
- not to have their work distorted or otherwise treated in a way that is prejudicial (that is, damaging or potentially damaging) to the creator's honour or reputation (the 'right of integrity').

It may not always be so clear that use of a copyright work for satirical purposes is reasonable because, unlike parody, the object of satire is generally not the copyright material itself. The copyright material used may enhance a work that has a satirical purpose but is unlikely to be necessary for the satirical purpose.

For more information, see our fact sheet [Moral Rights](#).

7. Performers' rights

In some cases, if you want to record a performance (such as a speech, musical act or dance show, whether from TV or live) and use the recording within your routine, you may need to consider any obligations you might have to performers as well as to any copyright owners.

In particular, you will have obligations to performers if you are recording another person's performance to use in your routine in cases where your use of the recording could not be classified as criticism or review or reporting the news. For further information, see our fact sheet [Performers' Rights](#).

8. Other legal issues that may be relevant

There are other areas of law which may be relevant. If you are preparing comic material using copyright material used in trade (e.g. a trade mark or logo), you may need to consider whether other areas of law, such as trade mark law and competition and consumer protection law (e.g. under the Australian Consumer Law) will restrict your use of it. These areas of law will be particularly relevant if people might be misled or deceived about your product or service.

A publication about another person can also be defamatory if it is disparaging, if it causes others to shun or avoid them or if it may subject that person to hatred, ridicule or contempt. In some cases, organisations can also be defamed.

Further information and advice

We have a range of other fact sheets on specific topics and publish books that focus on particular interest groups. Check our website for information about our publications [here](#) and details of our seminar/webinar program [here](#).

An Australian Copyright Council lawyer may be able to give you free preliminary legal advice about an issue not addressed in a fact sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries and members of our [affiliate organisations](#). For further information about the service, see [Legal Advice](#) on our website.

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About us

The Australian Copyright Council is an independent, not-for-profit, non-government organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries. Our objectives include:

- to assist creators and other copyright owners to exercise their rights effectively
- to raise awareness in the community about the importance of copyright
- to identify and research areas of copyright law which are inadequate or unfair
- to seek changes to law and practice to enhance the effectiveness and fairness of copyright
- to foster co-operation amongst bodies representing creators and owners of copyright.

The Australian Copyright Council acknowledges the Traditional Owners and Custodians of the lands on which our office is located, the Gadigal people of the Eora nation, and all Traditional Owners of Country throughout Australia. We pay our respects to all Elders past and present, and recognise their continuing great, creative and cultural expressions.



The Australian Copyright Council is assisted by the Australian Government through Creative Australia, its principal arts funding and advisory body.

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