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# CAL's sampling and distribution: how do they work?

Updated March 2009



## What is a sample scheme?

A sample scheme is a solution to the problem of measuring how much and what copyright material is copied by Copyright Agency Limited (CAL)'s licensees, as well as how much each member is entitled to claim from our distributions for that copying.

Copies of copyright materials (books, journals, artworks etc) are made and used by lecturers, teachers, government and others in the course of their work. Copyright rightsholders are entitled to compensation for these copies of their works.

CAL licenses, or gives permission for, this copying. These organisations, referred to as 'licensees', pay a fee that allows them to copy the works that CAL represents. This is usually a payment for the volume and type of copying done by a licensee. In most cases, it is not a payment for the copying of specific works.

CAL then has to work out how to distribute this lump sum licence fee to rightsholders in the most efficient and equitable manner. Sample schemes are one way to do this.

The decision whether to record all copying or to participate in a sample scheme is generally made by the licensee. Most licensees choose to monitor their copying through participation in a sample, as it is more practical than recording all of their copying. Separate sample schemes have been established for each group of licensees. For example, CAL has established separate sample schemes for schools and universities.

Under a sample scheme, a representative sample of copyright users is selected and for a short time these organisations keep records of everything they copy (known as the survey). As well as being used to estimate the total volume and type of copying, this data is used to identify and distribute payments to rightsholders.

## Is there an alternative?

CAL has to identify what material is being copied and how much is being copied. Both of these can be measured in one of two ways:

- reporting every copy made by the licensee; or
- a sample of what is copied by a licensee is used to estimate total copying.

The only alternatives to sampling involve either permanent record-keeping by everyone, everywhere, all the time (which is very burdensome, costly and inefficient), or discouraging people from making any copies at all (which would be a loss to all concerned).

Full record-keeping was tried by educational institutions in the past. It was found by most to be a burden, far more costly and, somewhat paradoxically, proved to be much less accurate than a well-designed and managed survey.

## How does sampling work?

This is easiest to answer with an example. Take schools for instance: teachers frequently use copies of published material in their teaching programs.

There are approximately 10,000 schools in Australia. Each year, CAL takes a sample of around 200 schools. Each of the selected schools keeps very detailed records of everything they copy for one teaching term. Survey participation is staggered to ensure that the whole of the school year is monitored. Field Officers from AMR Interactive, CAL's contracted research supplier, visit each school twice in the first month, then liaise by telephone with each school for the remainder of the participating school term to help manage the survey and make sure forms are being completed correctly.

At the end of the survey period for each school, the records of copying are checked by AMR Interactive before being processed by CAL. AMR Interactive undertakes a final audit of records prior to data analysis.

### More information

Copyright Agency Limited  
Level 15, 233 Castlereagh Street,  
Sydney NSW 2000

Tel: 1800 066 844  
Fax: +612 9394 7601

Email: [info@copyright.com.au](mailto:info@copyright.com.au)  
Website: [www.copyright.com.au](http://www.copyright.com.au)



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AMR Interactive then computes the total amount copied in the sample and calculates an annual rate of pages copied by schools in Australia.

## What is AMR Interactive's role?

CAL has appointed AMR Interactive as one of its independent researchers and statisticians. Their expertise is in the design, management and statistical analysis of surveys.

## How accurate is sampling?

There will always be a small difference between the result obtained in a sample-based survey and that which would have been obtained if the surveys included all possible copies all of the time.

There are many issues that affect the accuracy of measurements. One of them is cost. Others are the size of the administrative burden, the complexity of the survey and the willingness of respondents to participate.

Given the demonstrated inaccuracies of full record-keeping, the sample scheme represents a satisfactory trade-off between cost, burden and accuracy. It isn't simply the case that more measurement will be better or more reliable. For example, increasing the period during which records are kept may reduce co-operation by the licensees, which reduces the accuracy of what is copied as well as increasing costs, thereby reducing the amount available for distribution to members.

Over the years, CAL and the statisticians have developed expertise to ensure acceptable levels of efficiency and reliability. The accuracy and appropriateness of the sampling procedures has been affirmed by independent review and in proceedings before the Copyright Tribunal.

The current system represents a fair compromise of the interests of both copyright owners and licensees.

## How do rightsholders know that their works will be picked up in the sample?

The sample is designed to be as broad as possible, by location, time and type of institution. In school surveys, for example, four states or territories are usually surveyed each year, covering metropolitan, urban and rural areas. The schools survey is run continuously (every teaching day of the year records are being collected for CAL). Primary, secondary, government, Catholic, and independent private schools are all represented in the sample.

Works that are widely used and copied by a large number of institutions are very likely to be picked up in the sample. Works that are used less often or that are only copied in some locations will be recorded less often. This means that the works that appear in the copying records can vary between each survey. This variation affects who is entitled to claim from a distribution and how much they are entitled to claim.

To overcome these issues, the sample would need to be increased in size so much that it would almost be the same as keeping full records. Costs would increase, and no one would benefit if all the fees collected were spent on survey costs, leaving less to distribute to rightsholders.

## What happens after CAL gets the copying records?

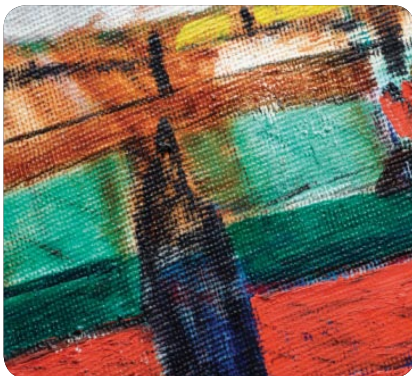
The information CAL receives from the copying records is often incomplete — for example, it may just be the name of the work and the pages copied. CAL then has to fully identify the work and match it to the author or publisher who controls the copyright in the work.

One of the other aims during this research process is to encourage non-members whose works have been copied to join CAL.

CAL is only allowed to pay someone for the copying of their work if they are a member of CAL, so people who aren't members must join before they are entitled to claim money from a distribution. Remember, membership of CAL is non-exclusive and free of charge.

## What if CAL can't find the rightsholder in a work?

If CAL can't identify who owns the rights in a work or can't find that owner, CAL will continue to research the work. During that time, the money for copying of that work is

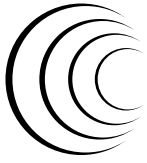


### More information

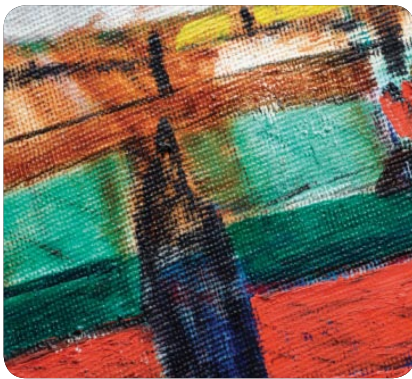
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Website: [www.copyright.com.au](http://www.copyright.com.au)



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held in trust by CAL. If the owner of the work is found and they become a member of CAL, CAL pays the money allocated for copying of the work to that rightsholder.

The period of time that CAL holds money in trust while searching for the rightsholder of a work is four years.

After four years, if CAL cannot either identify or find the rightsholder, or that person does not wish to join CAL, then the money owing to that person is rolled over into the current year's funds for distribution to eligible members.

### How is the distribution calculated?

CAL's database is used to calculate how much of the total pool each rightsholder is entitled to receive. This is based on which of their works have appeared in the copying records on which the distribution is based. This calculation is then balanced and checked by CAL's external auditors.

CAL then notifies members it believes are eligible to claim from that distribution.

### Why don't members get paid every year?

The licence fees collected by CAL are not payments for the copying of particular, specific works.

CAL's samples are designed to build up over several years a representative picture of licensees' copying practices. Payments based on a sampling system may represent a part-payment for copying of works over the whole cycle of the sample, which normally lasts several years. In some cases, however, a payment in only one year represents a member's full entitlement for the entire sampling cycle.

### I know my work has been copied and I haven't received a Notification from CAL

There are a number of reasons this might happen.

First, your work may have been copied but not included in the copying records kept for CAL as part of our surveys. This is because CAL's licences don't cover all copying done by licensees. For example, copying by students for their own research may be considered a fair dealing and so is not included in CAL's licences and is not surveyed. As a result, it's not included in CAL's distributions.

Second, it could be that your work was copied by an organisation not included in one of CAL's surveys. Each survey is made up of a different mix of licensees. This means that the works that appear in the copying records can vary between each survey. This variation affects who is entitled to claim from a distribution and how much they are entitled to claim.

Third, it could be because the total amount of your claim may be less than \$50.00. CAL does not notify a rightsholder until the amount they can claim is greater than \$50.00.

### How often does CAL distribute?

Distributions under most licence schemes are normally declared each year. Distributions under some of the smaller licences (such as pre-school and adult education) may occur less regularly.

### Who is CAL?

Copyright Agency Limited (CAL) is a not-for-profit company set up by Australian authors, journalists, visual artists, photographers and publishers to manage part of their copying and communication rights. CAL is owned by its members, membership is free and members give CAL a non-exclusive licence in respect of their works.

### Code of Conduct

CAL is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from CAL's website and on request.