

Linking to other Websites

a. What is a hyperlink?

A hyperlink is text or an image on a webpage which is usually presented in a different colour or underlined. When it is clicked on by the user it may act as a link to:

- * another place on the same webpage;
- * a webpage on the same website; or
- * a webpage on another website.

b. What is a deep link?

A 'deep link' is a special kind of hyperlink which is sometimes referred to as an 'embedded link'. A deep or embedded link directs the user to an inside page of a website and bypasses the linked site's home page.

c. Does hyperlinking infringe copyright?

In general, by including a hyperlink, you are not actually copying. It is generally fine to provide a hyperlink to another website as long as that link is not a site which is known to contain infringing material.

d. Does deeplinking infringe copyright?

The law is not clear on deep linking. Deep linking may cause problems in some instances if:

- o the material is presented out of its proper context, particularly if the material is not properly attributed;
- o the user thinks that they are accessing material on your site and not the linked website. This may give rise to claims of misleading conduct under trade practices laws;
- o the user does not see and consequently does not abide by any warnings or conditions contained in the home page in relation to use of that material. This may result in a claim that you are authorising the use to infringe copyright.

However it is important to note that deeplinking is now common practice and there has been no litigation on deeplinking in Australia, despite the above concerns. Deeplinking is unlikely to cause problems for Schools or school systems.

[Back to top ↑](#)

e. What is best practice?

It is generally not necessary to seek the permission of the website owner when creating a link to their website. However, it is important to include an acknowledgement of the source website. The form of acknowledgement that is appropriate depends on the circumstances. For example, if you are linking to a useful resource and you know the author of that resource, you may wish to include an acknowledgement such as "Mary Smith from X school has provided a useful summary on X's webpage".

f. What is framing?

Framing means linking to another website in such a way that it is not obvious to the person accessing the page, that they are in fact viewing a different website.

g. Does framing infringe copyright?

It is unclear whether framing infringes copyright. While the answer is likely to depend on the particular circumstances, Schools should be aware that framing is generally considered a higher risk activity than linking or even deeplinking. In particular, framing may cause the following problems:

- o the material may be presented out of its proper context, particularly if the material is not properly attributed;

- o the user may think they are accessing your website and material and not the linked website. This may give rise to claims of misleading conduct under trade practices laws;
- o the user may not see and consequently not abide by any warnings or conditions contained in the home page in relation to use of that material. This may result in a claim that you are authorising the user to infringe copyright.

There has been no litigation on framing in Australia and framing is unlikely to cause problems for Schools or school systems. However, Schools should be mindful of the nature of the WebPages and content that they are framing and avoid framing if there are other options (such as linking) available or unless they take appropriate means to minimise the risks associated with framing by appropriately attributing the material.

[Back to top](#) ↑

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