



Copyright Considerations for Archives

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The Holy Trifecta for archives

Why we need to copy:

- **Preservation**, particularly film and video where Deadline 2025 is the focus.
- **Access**, digital copies necessary to promote collections and locate records in the first place.
- **Use**, digital demands for research, exhibition and in-house business.

Dear [Name]

I would like to see if we can obtain the short segment of footage of live rehearsals at The Old Tote Theatre with John Krummel, Robert Quentin & Tom Brown during Hedda Gabler taken in September 1967.

*“...there are 2 plays in the program: “Hedda Gabler” and “Point of Departure”. Hedda Gabler is out of copyright, and if I’m correct with linking “Point of Departure” with **Jean Anouilh** as the writer then clearance would need to be sought from his estate. It is further complicated by the fact that the translator of the play is **Kitty Black, who’s now deceased**. Therefore there would be 2 estates that clearance needs to be sought for. That’s my best informed guess – it could just be a student-written play for all I know, however it would be prudent for the author(s) to be confirmed before undertaking any clearances.*

*One lead to the estate holders is Penguin Books since they’d acquired Coward & McCann publishing’s – the **original publishers** of the play.*

*NIDA would have to approach the two current estate holders for the necessary clearance – clearing for the necessary period and for **Australian Non-Theatric rights**.*

*It is my understanding that Non Theatric’s licensing contract states that the client must **clear all underlying rights** in the supplied program. Therefore, if NIDA become party to the contract, it should be made clear to them that they would need to clear the play, or else they would be in **breach of contract**.”*

If you are wanting to try and clear the rights you are more than welcome. We won’t be able to release it without permission from the two estate holders mentioned.

We’ve all been there....

NIDA

Flexible exceptions

- Can we really say s200AB is sufficient for archival access and use?
- 'Special case' test best suited to individual items.
- How does it apply to digitisation of your average archival correspondence file with multiple authors across multiple locations and subjects?
- If it's not digital, will anyone ever find it?

Archival Recordings

NIDA has hundreds of these dating back 30 years:

11.2 ...an historical record for the Employer for use by the Employer, students or historians; archival reference for rights holders, principal cast and production (creative team with appropriate waivers executed by the Employer) a performance reference for an Performer where more than one Performer is cast to perform the same role; as a tool to onsell the performance; for planning and research; a guide to recreate the production when it is restaged or revised; for a choreographer, director, musical director to remount future productions.

Performers Collective Agreement 2017

Contracts vs Legislation

Much of NIDA's use of copyright materials is managed by licence: scripts, music, footage, live streaming, broadcasts.

- Contractual agreements overlay preservation, access and use of materials we hold in the library and archives.
- If a perusal copy of a script ends up in a library, should we preserve and allow its use, or send it back to the publisher? Can we justify digitising the archival recordings at great expense if they can't be accessed or used?
- Should the rights to preserve, access and use copyright materials held in archival collections override any contractual limitations?

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Flight, 2010: NIDA student production , Photographer: Gaye Gerard, NIDA