Podcasts and podcasting – JISC Legal's latest publication explains the law relevant to the new technology

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The steady adoption of podcasting within the academic sector has opened up a new range of teaching and promotional opportunities for institutions seeking to retain the interest of the 'point and click' generation. Modern students are not excited by the prospect of sitting in large lecture theatres at a time designated by the lecturer, but prefer to access information via computers or hand held technologies, when they choose – video streaming, social networking sites, wikis and blogs are all being added to the portfolio of educational delivery methods in addition to the podcast. The pedagogical reasons for following the preference are reasonable and for some things it may certainly be a more effective way to deliver elements of the course – giving medical students a sound file of a heart murmur must be a better way to learn how to diagnose the problem as compared to a verbal description. With these new developments has come an increasing amount of literature outlining how institutions are using podcasting – case studies, strategic reviews and technical reports may all be found. There is, however, one critical aspect which has very little coverage within this general body of material. It is the law and how it impacts on the whole activity of podcasting. Failure to grasp its importance could leave your institution exposed to legal challenges and penalties or being forced to revert to more conventional forms of course delivery. In response to this gap, JISC Legal (based at the University of Strathclyde) has published a new paper by Gavin Sutter called *Podcasts and the Law*. It is available on the service's website at: http://www.jisclegal.ac.uk/publicationspage.htm

What is a podcast?

A podcast is a media file which is made available over the internet, but downloaded by the user at their request. The file can be downloaded on to MP3 players and mobile phones as well as the more traditional laptops and PCs. There are various file formats which may be included in order to deliver images, sound or document files. You should familiarise yourself with the relevant aspects of the law if any of your teaching or promotional materials are currently delivered in this way, or if you have been set the task of storing such materials for an institutional archive. The new JISC Legal paper can raise your awareness of the law in order to prevent it becoming a barrier to podcasting.

Checklist of podcasting issues with legal implications

Issue	Legal implication

Is the audience restricted – intranet only access and what legal protection might an authentication system give?	Broadcasting law is currently being reviewed by the EU and may soon include podcast, but with a possible exemption for non-commercial services.
Is the audience public – general internet?	Broadcasting law and possible compliance with laws outside the UK jurisdiction may need to be considered
Who has made the recording?	A copyright licence may be required in addition to IPR policies for treatment of material created by the institutions' own staff.
Are the works of others included?	Copyright permissions may be required from producers, film directors or performers in addition to the more conventional author
Are any trade marks or trade names mentioned?	Possible trade mark infringement
Are any critical comments about other people or products included?	Defamation
Is there the intention to amend or edit the podcast after initial loading?	Consider agreements to waive moral rights of original creators
Can or will the person downloading it, copy or further distribute the podcast?	Consider licensing agreements and acceptable use policies

The law, particularly in the area of new technologies and electronic data is continually under review. JISC Legal monitors all such developments and reports back to the academic community via its website, printed publications, workshops, regular email newsletter and help desk service. Other topics investigated this year include cyber-crime, accessibility law and ISP liability. The JISC legal website is at: http://www.jisclegal.ac.uk