

Considerations for the Use and Purchase of Mobile Applications (apps)

What are "apps"?

Apps are pieces of software that run on a mobile device, such as a smart phone, tablet or an iPod or iPad. As mobile devices increase in popularity in schools there is an increasing number of new apps being developed for purchase, many of which are designed specifically for use by teachers and students.

Apps are available to download from a number of websites and for a range of operating systems – for example for the Android Marketplace (for Android devices), Blackberry AppWorld (for Blackberry devices), and the Apple iTunes store where iTunes apps are purchased for iPhones, iPods and iPads. In order to purchase an iTunes app, you must have an iTunes account.

This information sheet deals with the issues around purchasing and use of iTunes and Google Marketplace apps specifically, however the same general principles will apply to other app stores. The app scenario is very dynamic needing regular updates as the legalities of schools using apps are clarified, please check to make sure the school is using current information.

How can Schools use apps in the classroom?

When purchasing apps from an app store, generally the customer must agree to the store's Terms of Use (click 'I agree'); these specific terms and conditions govern the use of the apps once purchased. Hence, schools can only use apps in ways and for purposes permitted by the terms of use that apply when the app is purchased. These terms and conditions of use apply equally to 'free' apps as well those that are charged for, as both are 'purchased' and show up on the account.

For iTunes apps, the licence to use an app is granted to the iTunes account holder. As discussed below, the account holder may be the school or the student.

It is important to understand that the purchaser does not 'own' the app; rather they purchase a licence to 'use' the app on a specified number of products.

Apps purchased by the School

It is also possible for an app developer to set different terms of use for their particular app – for a particular educational app of interest, schools should check whether specific terms of use have been prepared by the developer for that app that permit broader educational uses. Some app developers have offered their apps at a special price for bulk purchasing, see Apple Volume Purchasing below. As mentioned above, the app scenario is rapidly evolving. There are some business models where the apps in question are in fact free for use, with paid content being consumed within the app based on different licence arrangements. For example, an online publisher sells annual licence to the school for unlimited student use, and makes available an iPad app for free as

another means of accessing that content, with each student being issued a user name and password for use "in-app".

Android apps:

As for iTunes apps, Android apps generally can only be used by the person who purchases them. Currently, there are no bulk-licensing or educational licensing arrangements that enable a school to purchase an Android app for use on multiple devices throughout a school.

Note however that the developer of an Android app can set the terms on which their particular app is licensed, and might – in the case of educational apps, for example – permit broader use within a school. To determine whether this is so, staff need to review the Terms of Use or End User Licence Agreement for that particular app.

Apps purchased by the student for use on a school owned iPad

Scenario to help explain:

A school owns a 'class set' of iPads that are issued to students for say 1-3 years. Student uses iPad, with the student's personal iTunes account, and has unfettered control over what goes on the iPad. (Note that the iTunes Store Service is only available for individuals aged 13 years or older. *iTunes Store terms and conditions* <http://www.apple.com/legal/itunes/au/terms.html>). Because of this the school does not have any ownership nor control of apps on the iPads (given they can only be connected to one iTunes account at a time, and they are connected to the student's account).

The question arises, when the student hands back the iPad is the school obliged to wipe apps left on the iPad by the student? This raises a mix of technical and legal issues, which are subject to change:

- Any app the student has purchased during the year is licensed to them and will continue to be so as the student cannot 'gift' them on to another student, nor can the school reclaim them (if purchase was originally funded by the school for example) as the licence is 'non-transferable'. So the student would retain rights to use those apps on the student's personal device(s) (if any), irrespective of the hardware, once the school's iPad has been returned to the school.
- If the student chooses to leave apps on the device when they hand it back, best practice would be for the school to wipe the apps before passing on to a new student. Letting a new student use the old apps may or may not create liability for the school, but would almost certainly put the old student in breach of Apple's terms and conditions (given Apple only licensed the old apps for the personal use of the old student - not a new student).

Schools can turn off the ability to make App and Book Product purchases by adjusting the settings on the iOS Device. For more information, please see <http://support.apple.com/kb/HT1904> or <http://support.apple.com/kb/HT4213>.

Apple Volume Purchase Program

Apple has advised the Department that its Volume Purchase Program (VPP) is now operable.

The VPP allows educational institutions to purchase iOS apps in volume and distribute them to students, teachers, administrators and employees. It also allows app developers to offer special pricing for purchases of 20 +apps.

Different licensing models for purchase exist according to whether the app is transferred personally to the student or staff member, or where the school retains ownership. The latter requires Apple Configurator- a free app.

Schools should enlist through VPP Education Store
<https://volume.itunes.apple.com/au/store/>.

Schools need to nominate a program manager, who can then nominate other staff members as program facilitators to open a Programme Facilitator account

For further information please view the following websites

- **Enrolment and General Information**
<http://www.apple.com/au/education/volume-purchase-program/>
- **Frequently Asked Questions** <http://www.apple.com/au/education/volume-purchase-program/faq.html>
- **Creating an iTunes Store, App Store, iBookstore, and Mac App Store account without a credit card** <http://support.apple.com/kb/HT2534>
- **Apple Configurator: Using Volume Purchase Program (VPP) Redemption Codes** <http://support.apple.com/kb/HT5188>

Can a school rely on Part VB, or s 200AB, to make copies of apps?

The Part VB statutory licence (which permits much photocopying and electronic copying by educational institutions) does not apply to software, such as apps. Nor will the flexible dealing exception in s 200AB of the Copyright Act be able to be relied on to make copies of apps for distribution to students, as it will generally be the case that the app required for copying will be able to be purchased.

For more information on copyright, please refer to the Smartcopying website www.smartcopying.edu.au or contact

Caroline Brasnett
Manager Copyright and Intellectual Property
Phone: 0409103748

Email: caroline.brasnett@education.wa.edu.au