

Introduction

Copyright is an intellectual property right that prevents unauthorised use of original creative material such as photographs, written articles, music, films, TV broadcasts, audio recordings, artworks and computer software. It usually belongs in the first instance to the creator of the material, but like other forms of property it can be sold or licensed to others.

If you use copyright-protected material, for example by playing music in public or by copying text or images from an online source, you must ensure that you obtain any necessary permission from the copyright owner.

For a detailed explanation of copyright law, see BIF471 A Guide to the Copyright, Designs and Patents Act 1988. This factsheet focuses on the practical questions of when permission is needed, and how to apply for permission. It also includes a short summary of how to avoid copyright infringement.

When is permission needed?

Activities that usually require permission from the copyright owner include:

- Copying the material.
- Distributing, lending or renting copies of it.
- Performing, playing or showing the material in public.
- 'Communicating' it to the public, for example by broadcasting.
- Adapting it.

Practical examples of these activities include:

- Copying text from a newspaper article into a blog post on a business website.
- Making copies of software.
- Adapting or modifying software.
- Photocopying extracts from a training manual and distributing them to employees.
- Playing music in a shop or on factory premises.
- Renting out copies of a CD or DVD.
- Showing a video at a conference or during staff training sessions.
- Using another retailer's photographs of a product on an e-commerce website.

- Reproducing a photograph on a product (such as a T-shirt or a mug), or adapting it into another format such as a knitting pattern or a tattoo design.

When is permission not needed?

The Copyright Designs and Patents Act 1988 sets out some limited circumstances in which you do not need the copyright owner's permission before copying or distributing copyright-protected material or before performing, playing, showing or communicating it to the public. Many of these relate to non-commercial activities, such as copying extracts from books for the purpose of private research and study, or performing copyright-protected material in schools for educational purposes.

However, there are some limited business-related uses of copyright-protected material that you can make without asking the copyright owner first. For example, it is usually acceptable to quote short extracts from copyright-protected material without asking for permission, provided that source of the material is made clear, the copyright owner is acknowledged and the principle of 'fair dealing' is followed.

The definition of fair dealing is not particularly clear, but court decisions generally consider whether the copying has deprived the copyright owner of a sale, the amount of the copyright-protected material that has been copied and whether the individual copying the work will receive a substantial financial benefit.

You can find out more about the circumstances that allow limited use of material without the permission of the copyright owner at www.gov.uk/guidance/exceptions-to-copyright.

How to obtain permission

Some material is published with a clear copyright notice that sets out limited or unlimited permission to reproduce or distribute it. For example, some publishers sell software, training manuals or subscriptions to online content with a licence to copy or use the material in specified ways. In these cases, anyone who purchases the material automatically has permission to use it in the ways that have been specified.

More often however, material is published without any indication of whether or not it can be copied, in which case you must obtain the permission of the copyright owner.

Sometimes a brief e-mail exchange with the copyright owner is all that is needed to request and obtain permission. However, in many cases you must obtain a formal licence, which is a legally binding contract made between you and the copyright owner, giving you specified rights to reproduce, distribute, use or otherwise exploit the material in return for royalty payments.

For more information about licence agreements, see BIF537 Intellectual Property Licence Agreements.

Collective licensing bodies

Instead of approaching a copyright owner directly, you can often apply to collective licensing bodies (also known as collective management organisations) for permission to use copyright-protected material. These bodies grant licences and collect royalties on behalf of copyright owners.

For example:

- PPL PRS Ltd (<https://pplprs.co.uk/what-we-do/>) grants licences to play recorded music in public.
- The Copyright Licensing Agency (www.cla.co.uk) grants licences to photocopy, scan or re-use content from magazines, books, journals and electronic and online publications.

For more information about collective licensing and to view a list of the major collective licensing bodies, go to www.gov.uk/guidance/licensing-bodies-and-collective-management-organisations.

Enforcement

If you infringe copyright, you risk being taken to court by the copyright owner and having to pay damages. Under the Copyright, Designs and Patents Act 1988 you can also be found guilty of criminal offences that carry a maximum penalty of six months imprisonment and an unlimited fine.

Even where legal action does not result, the infringement of copyright can cause your business significant reputational damage.

Copyright compliance summary

Copyright infringement is not always intentional. Often it occurs accidentally because a business has no procedures in place to ensure that copyright-protected material is properly used.

To avoid infringing copyright, you should:

- Check the terms and conditions of use for all documents, software, images, subscriptions and other copyright-protected material that you purchase.
- When commissioning writers, photographers, videographers and similar professionals, ensure that there is a written agreement that clarifies the use that you can make of copyright-protected material created by the professional under the terms of the commission.
- When viewing content online, look for the option to click a phrase such as "Re-using this content", which is increasingly used by publishers to communicate the extent of the permission that they give for their content to be reproduced elsewhere.
- Develop a written copyright policy and ensure that employees understand how to use copyright-protected materials in accordance with the law.

Copyleft arrangements

'Copyleft' is a way of ensuring that a creative work and all copies, adaptations and improvements of it remain freely available for anyone to use. A copyleft licence allows you to copy, distribute or adapt someone else's creative work freely, provided that you acknowledge the original creator of the material and you also allow others to use your copies and adaptations freely on the same terms.

When material is published under the terms of a copyleft licence, it is generally accompanied by a summary of the terms of the licence and a statement that by using the material you indicate that you accept these terms.

There are several different types of copyleft licence, for example Creative Commons licences (<https://creativecommons.org>), which can be used to cover all types of creative work.

Further information

BIF012 An Overview of Intellectual Property Rights

BIF218 Using Copyright to Protect Your Work

BIF471 A Guide to the Copyright, Designs and Patents Act 1988

BIF488 Licence to Play Music on Business Premises

BIF537 Intellectual Property Licence Agreements

Useful contacts

The Intellectual Property Office (IPO) is the government body for intellectual property protection in the UK. It provides information and advice about all intellectual property issues including copyright.

0300 300 2000

www.gov.uk/government/organisations/intellectual-property-office

The Copyright Licensing Agency (CLA) is a non-profit making agency that grants licences to photocopy, scan or re-use content from magazines, books, journals and electronic and online publications. It also provides guidance and resources relating to copyright.

(020) 7400 3100

www.cla.co.uk

PPL PRS Ltd is a joint venture between two licensing bodies, PPL and PRS for Music. It grants TheMusicLicence, which allows businesses to play music legally for employees or customers on the radio, TV, other digital devices and in live performances.

0800 072 0808

<https://pplprs.co.uk>

The Copyright Tribunal is a non-departmental public body sponsored by the Department for Business. It resolves licensing disputes between copyright owners (or collective bodies acting on their behalf) and people who use copyright-protected material in their business.

www.gov.uk/government/organisations/copyright-tribunal

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