

Contemporary Media Regulation: A Case Study in Copyright Law



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Part I – Introduction

Introduction

Contemporary Media Regulation: A Case Study in Copyright Law is an educational web resource which addresses *Critical Perspectives in Media, Section B: Contemporary Media Issues*.

A Level students who choose *Contemporary Media Regulation* are free to study any media texts, theories, case studies, debates and issues, providing they relate to four prompts listed in the Oxford Cambridge and RSA Examination Board (OCR) Unit Specification (p. 39). For purposes of this copyright education resource, the four prompts have been adapted to the copyright context. Each prompt contains original illustrations and explanatory texts.

The content is shaped to enable teachers to explain the complexity and importance of copyright in media, and for the students to research copyright regulation and demonstrate their understanding within the *Contemporary Media Regulation* exam question.

This educational resource provides teachers with simple and straightforward information about copyright. The focus is to bring together different perspectives on copyright issues. There is a consideration of the historical, contemporary and future copyright issues, with an emphasis on present.

This resource and copyrightuser.org are based in the UK and therefore the content here reflects what is permitted under **UK copyright legislation**.

Methodology

To meet the above-mentioned goal and in order to accurately gather and offer the different perspectives on copyright regulation, a short questionnaire, inspired by the four prompt questions within *Critical Perspectives in Media*, was sent to a broad range of copyright stakeholders. The goal of the questionnaire was to gather as many perspectives on copyright law as possible, in order to present a balanced view.

The responses generated provided an interesting landscape of the various perspectives on copyright, including the views of individual creators; rightsholders; EU and UK regulators; collecting societies; Internet service providers and users' representatives, amongst others.

Using qualitative techniques, the responses to the questionnaire were coded into the most common copyright issues. The researchers identified 18 common issues from the coding process. These included (1) originality, (2) new business models, (3) perceptions, (4)

technology and (5) education, amongst others. This allowed the researchers to systematically categorise the responses to illustrate the different stakeholder perspectives on the most current and pressing issues surrounding copyright regulation and media. This approach also enabled the researchers to capture various copyright issues through practical examples thereby providing teachers and students with robust, raw material with which to debate contemporary media issues.

The educational information is presented in a user-friendly and strategic format consistent with the OCR A Level structure. However, the resource does not restrict teachers to a specific lesson plan or classroom structure and therefore enables flexibility in teaching style, student interaction and learning environments.

The resource aims to present a balanced view. To achieve this aim and to present the different copyright perspectives in a digestible and coherent manner, the researchers have identified the responses by the stakeholder position. However, for the purposes of transparency all stakeholders who contributed to this resource are named under the 'contributors' section.

The methodology used by the researchers to create the educational resource was approved by the OCR at their *Annual AS/A Level OCR Media Studies Conference*, which took place in London on 21 March 2014.

Part II – A Level Media: A Case Study in Copyright

Prompt One



What is the nature of contemporary copyright regulation compared with previous practices?

To answer this question, we have broken it down into **three bite-sized questions**. The answers to this question is supported by research undertaken for [Copyrightuser.org](https://www.copyrightuser.org), an online resource, which aims to make UK copyright law accessible to creators and members of the public. The material made available on [Copyrightuser.org](https://www.copyrightuser.org) is free to use, share and adapt according to the [Creative Commons Licence](https://creativecommons.org/licenses/by/4.0/) as long as you acknowledge **Copyrightuser.org**. Acknowledging the creator is also a very important requirement under copyright law, as outlined below. Accordingly, we request that you please acknowledge and reference **Copyrightuser.org** in answering this question.

1. **HOW DOES COPYRIGHT WORK AND WHY IS IT IMPORTANT?**
2. **HOW DOES COPYRIGHT REGULATE MEDIA?**
3. **HOW HAS THE INTERNET TRANSFORMED COPYRIGHT?**

See also:

- **CASE STUDY: HARRY POTTER**
- **TASK**

1. How does copyright work and why is it important?

How does copyright work?

In Copyrightuser.org under the section [protecting](#), we explain the types of creative works protected under copyright, such as books, songs, films and video games amongst others. Copyright protection is provided for the expression of ideas and not the ideas themselves. Therefore, although a creator can take inspiration from other people's ideas, to obtain copyright in their own work, the creator must express those ideas in their own individual way. This means that it is important that the work you create is your "own intellectual creation" according to the test established by a recent European ruling or, as the UK law puts it, you have used your own "skill, labour, effort and judgement". If you meet these criteria your work will be considered "original" and you will have copyright in your work.

Copyright is a set of rights through which writers, visual artists, filmmakers, musicians and other types of creators can control the use of their work and get paid for it. Copyright grants the owner the exclusive right to copy, issue, rent, lend, perform, show, communicate and adapt their work. How you go about [getting permission](#) to use other people's copyright works is explained in Copyrightuser.org. For example, if you want to produce a film based on a novel, you need to get permission from the author and others who may have rights in that novel (e.g. the publisher). Once you have obtained all the relevant permissions you can produce your film, which will also be protected by copyright.

You may wonder how books, films and other creative works actually receive copyright protection. This is not as difficult as it may seem: copyright is granted *automatically*, so there is no need for registration. As long as your work is *original* and in *permanent* or *fixed* form, you have copyright. For example, if you take a photo or write a short story, you will automatically have copyright in your work. Marking your work with the © followed by your name and the year of publication can be a useful way of asserting your ownership, but it is not essential in order for copyright to arise.

Infringement of copyright occurs if someone uses a whole, or a substantial part of, a copyright work without permission. The precise meaning of "substantial part" is unclear as this is decided on a case-by-case basis. However, we do know that the court considers it to be a matter of quality and not quantity.

Copyright does not last forever: in the UK copyright generally lasts for the lifetime of the author plus 70 years after their death. After that, the work is in the public domain and everyone can use it without having to seek permission from the copyright owner. For more information about how to deal with public domain works, see the [public domain section](#) on Copyrightuser.org.

Why is copyright important?

"The objective of copyright is to promote and spread creativity as well as balancing the interests of the copyright owners and the users." (Internet Service Provider)

As such, the ultimate goal of copyright is the *creation and spread of knowledge*. Indeed one of the main purposes of copyright regulation is to strike a balance between production and dissemination of knowledge. In other words, copyright regulation has to reward and incentivise creators to produce new works, whilst allowing the public to access and use these works.

Copyright enables creators to make a living from their work by [selling or licensing](#) their material. By rewarding creators' efforts and ensuring an income for them, copyright encourages creativity leading to the creation of new material, which in turn leads to the development of a society rich in innovative content.

At the same time, in order to be beneficial, knowledge needs to be spread and shared. As explained on [Copyrightuser.org](#) it is important to give [access](#) to creative works in order to take inspiration from ideas and develop more creations. Similarly, there has to be a mechanism in place for the [use and re-use](#) of copyright works. Copyright law provides for this important balance by rewarding and incentivising creators on the one hand, whilst providing for the spread of knowledge on the other.

*“The purpose of copyright is to provide a balance between the need to encourage the continued production/creation of new knowledge by enabling the control of the exploitation of that work for a period of time, after which it enters the public domain.”
(Television Industry Expert)*

2. How does copyright regulate media?

Copyright regulates the use of media in creative productions. We explain this concept in further detail in the [copyright and creativity](#) section of **Copyrightuser.org**. For example, if you are producing a video, copyright law says what you can or cannot do with other people's work in creating the video (e.g. including film footage or music), and protects the work which you have created. As such, it enables creators to control how other people use their work so that they can be rewarded for their creation.

“One of the roles of copyright regulation is to ensure that creators are fairly rewarded for the exploitation of their works and to facilitate the exploitation of such works, in particular through the mechanisms of assignment and licensing.” (Judge)

In general, if you want to re-use the whole or a substantial part of a copyright protected work – e.g. you want to create a mash-up of your favourite TV series using your favourite song – you need to get permission from all the copyright owners involved. This can be a difficult (and expensive) process, because works like TV programmes have several rights attached to them and each of these rights may have more than one owner. However, many creators are members of collecting societies (e.g. [PRS for Music](#) or [DACs](#)) that license work on their behalf. This often simplifies the process of obtaining a licence.

There are also cases where it is not possible to identify the owner of a specific work because he or she is unknown or cannot be found. These works are called “orphan works” and you can find more information about this in the [orphan works section](#) within **Copyrightuser.org**.

You need permission of the copyright owners not only to reproduce their work, which includes adapting or editing it, but also to share it. This means that if you want to upload your mash-up to *YouTube* for example, you should make sure that your video is not infringing copyright law. It is the users who are responsible for complying with copyright law, not *YouTube*; and if you are uploading your video in the UK, then UK copyright law applies. *YouTube* can take down a video that is infringing someone's copyright on request of the owner of that copyright. For more information see [YouTube terms and conditions](#). For further information and guidance on how to create something original, which does not infringe other people's copyright, see the [use and re-use section](#) within **Copyrightuser.org**.

However, you do not always need to get permission in order to re-use a creative work. Permission is not required if you are using the work for reasons covered by "copyright exceptions", which involve uses such as [non-commercial research and private study, quotation for the purpose of criticism and review, news reporting, parody, and education](#), amongst others. These exceptions are explained accurately in user-friendly language on **Copyrightuser.org**.

Once you have created something original, that work is your own and you can license its use in different ways. These include:

- 1) Signing a private agreement with the person or organisation that wants to use it (e.g. a company that wants to produce a film based on your novel);
- 2) Joining a collecting society, such as PRS for Music or DACS, that will license your work and collect royalties on your behalf; or
- 3) Permitting everyone to freely re-use your work under certain conditions by distributing it under a [Creative Commons licence](#).

3. How has the Internet transformed copyright?

There is a very close relationship between [copyright and technology](#). Technologies such as the printing press, fax machine and the photocopying machine have made copying easier. However, none of these technologies has had an impact as significant as the Internet. The Internet has enabled more creation, use and re-use of copyright works. However, the Internet has also enabled mass-scale copying which has challenged copyright law in recent years.

Copyright regulation responded to these developments by extending the scope of copyright protection. The first copyright law only protected printed books and written materials for a period of 14 years. Today, copyright law covers almost every kind of creative work for a much longer period of time (i.e. lifetime of the author plus 70 years after their death).

The Internet and many new online technologies make copying and sharing extremely easy; it is quicker, cheaper and more accurate than ever before. These developments are challenging and copyright regulation must continue to adapt.

One of the new challenges that copyright faces today is the notion of the creator. Previously, the creator of the work was very easy to identify – it was the author of the book for example.

However, the nature of creativity has changed. Media and technology is becoming more interactive and often invites audiences to creatively participate, making them users and creators at the same time. Media production is not only for professionals anymore. New technologies enable everyone to express their creativity and have inspired new ways of using creative works, such as fan fiction and remix.

“The concept of authorship still seems to be based on the notion of individual creation, when the reality in the digital context seems to involve collaboration, rather than the ‘individual genius’, as a core underpinning of the creative process.” (Academic)

However, many of these new creative activities are restricted by current copyright regulation. The tension between what the law says and what people do online raises several interesting questions about contemporary copyright regulation, which will be explored in the remaining three prompt questions of this resource.

Case Study: Harry Potter

J.K. Rowling famously began writing the first *Harry Potter* book in a café in Edinburgh, as a single mum surviving on state benefits. In a newspaper interview she told her story:

“I was as poor as it’s possible to be in this country. I was a single parent. I remember 20 years ago not eating so my daughter would eat. I remember nights when there was literally no money.” (J. K. Rowling)

J. K. Rowling, whilst inspired by other authors, created the story of *Harry Potter and The Philosopher’s Stone*. She was then able to license her copyright to *Bloomsbury Publishing Plc*, who published the book and rewarded her financially. Thereafter she was paid an advance to write more and continue the story of *Harry Potter* and complete the seven-book sequence, collectively selling over 400 million copies!

“It happened very suddenly and it was marvellous on one level. I had security. I could buy a house. I could look at my daughter and think, “Wow, I can buy you some stuff!” ... The big moment was a large advance from America in 1997. We stopped renting and I could buy a house... Next it was not just advances, it was royalties coming in.” (J. K. Rowling)

J. K. Rowling was able to do this because copyright gave her the exclusive rights to protect her story. She licensed that right to *Bloomsbury Publishing Plc*, giving them permission to print and distribute her work in return for royalty payments.

J. K. Rowling and *Bloomsbury* were then able to sub-license the *Harry Potter* story in order to make more creations. For example, *Warner Bros Entertainment Inc.* had to pay for a licence to use J. K. Rowling’s story to create the *Harry Potter* film series. This is known as a derivative work.

Other derivative creations of *Harry Potter* include the translation of the books into 67 different languages, audio books, computer games, an amusement park and more. In order to create these works a licence had to be obtained from the copyright holders. This means

as well as *Warner Bros* and the other creators of the derivative works, J. K. Rowling and *Bloomsbury* can continue to benefit from royalty payments.

For example, *Warner Bros* owns the copyright in the *Harry Potter* films, so when *Electronic Arts* wanted to create *Harry Potter* the video game using the characters and setting from the film, they had to obtain a licence from *Warner Bros*, who then earns royalties from the sales of the games.

Another way in which the *Harry Potter* stories have been used is to make parodies. For example, the [Potter Puppet Pals](#) is a *YouTube* series using the characters from *Harry Potter* to tell stories. The creator has spent his time and effort making the puppets, the storylines, the songs and music to produce 16 different parody videos. Until 1 October 2014, the use of the original work would have been copyright infringement. However with the introduction of the [new parody exception](#) within the scope of fair dealing, the original work can be parodied in certain circumstances.

One of these videos, [Potter Puppet Pals: The Mysterious Ticking Noise](#), has received over 156,365,229 views. At the beginning of this video is an advertisement. This usually means that the rightsholder is receiving a payment every time that the video is watched.

Source: J. K. Rowling quotes have been taken from www.jkrowling.com

Task: Creating and licensing your own work

Copyright subsists in an original creative work. Copyright gives you the exclusive right to copy, issue, rent, lend, perform, show, communicate and adapt your work.

Below are a list of scenarios to consider when creating your own work and licensing it.

1. You want to write an original story about a wizard and his adventures at wizardry school. How do you do this without infringing copyright law?
2. Having created your own original story, how would you disseminate it?
3. Your story is very successful. Someone approaches you and they want to use one of your characters in their video game. What permission do you give them?

Prompt Two



What are the arguments for and against contemporary copyright regulation?

The answers to this question is supported by research undertaken for [Copyrightuser.org](https://www.copyrightuser.org), an online resource which aims to make UK copyright law accessible to creators and members of the public. The material made available on [Copyrightuser.org](https://www.copyrightuser.org) is free to use, share and adapt according to the [Creative Commons Licence](https://creativecommons.org/licenses/by/4.0/) as long as you acknowledge **Copyrightuser.org**. Acknowledging the creator is also a very important requirement under copyright law, as you will learn from the content below. Accordingly, we request that you please acknowledge and reference **Copyrightuser.org** in answering this question.

1. INTRODUCTION

2. ARGUMENTS SUPPORTING COPYRIGHT

3. ARGUMENTS CRITICISING COPYRIGHT

See also:

- **CASE STUDY: FAN FICTION**

- **TASK**

1. Introduction

As was established in [Prompt One](#), the ultimate purpose of copyright is the *creation and spread of knowledge*. In order to do this, copyright must strike a fair balance between protecting creative works and allowing the public to use them.

“The purpose of copyright is to protect the investment of time and resources in the creation of something new, whilst at the same time encouraging socially beneficial uses of those materials.” (Academic)

Balancing these different objectives can be a challenge for copyright, particularly in the digital age. This is because there are many different stakeholders with opposing interests in the copyright debate, and they do not always agree on where the balance lies.

“Rights owners have to recognise that they need to adapt their own expectations and methods of working. Users have to accept that free access to everything is incompatible with their desire to see materials created and with the rights of creators.” (Archive Expert)

In light of this, we will explore the different stakeholder perspectives drawn from the questionnaire responses on copyright regulation in the digital age and consider the arguments supporting and arguments criticising copyright regulation.

2. Arguments supporting copyright

From the stakeholder responses, we have identified three main arguments supporting copyright regulation, which are explored in this section. They are (a) rewarding creators; (b) encouraging creativity; and (c) promoting culture in society.

Copyright rewards creators

The first argument supporting copyright regulation is that it means authors are paid for their work. This means that creators can live from their work; such as described in the [J. K. Rowling](#) example in [Prompt One](#). This is achieved by granting the creator an exclusive right, which means others need to ask for [permission](#) before they can use the whole, or a substantial part, of the creator’s work, unless the use falls within one of the [exceptions](#) or the work is in the [public domain](#).

“Having copyright in my own work has allowed me to make a living from the photographs produced. Without copyright I would not have been able to support myself doing this work over the last 40 years creating a body of work which has been widely published.” (Photographer)

Usually creators make money from their creations by [licensing](#) their copyright. They can do this in a number of ways, such as through a collecting society, a publisher or record label for example.

“As a record label we licence the copyright, we are essentially loaning the rights for set periods. We are striking a deal so that we can distribute the artists material.” (Independent Record Label)

Copyright then enables the licensing agencies to distribute the work to the public and pay the creator royalties.

“Copyright allows visual artists to own the fruits of their creativity. As the copyright owner, it entitles them to royalties.” (Collecting Society)

For more information about how licensing works, see the [licensing and exploiting](#) section on **Copyrightuser.org**.

Copyright encourages creativity

When artists are paid for their work, through royalties for example, they are then able to produce more material.

“Royalty earnings help to support an artist’s practice by paying for studio rent or the purchase of equipment and materials.” (Collecting Society)

Copyright only protects the expression of an idea, not the idea itself. This means that whilst creators can benefit from their work, their personal expression, the general ideas remain available for others to use. See the [using and re-using](#) section on **Copyrightuser.org**.

“Some artists feel humbled to have young artists take influences from their work.” (Musician)

Another person can take inspiration from a work and add his own personal creative input to develop further creative works. This new work could then also be protected by copyright.

“To be original, works must bear the stamp of the author’s personality.” (Academic)

[Copyrightuser.org](#) interviewed creators and asked them about what motivates them to create. For example see the video involving [filmmakers](#) for a further insight.

Copyright benefits society by promoting culture

As explained above, when authors are encouraged to create, more creations and more content come into being. As a result, our cultural heritage grows and this benefits society as a whole.

“Copyright has an important purpose in benefiting society by encouraging the creation of works of learning, the arts and entertainment that the members of society can enjoy.” (Archive Expert)

These examples illustrate that the purpose of copyright is to promote creativity and spread knowledge. Copyright allows creators to get paid for their work, which means more creation and a rich culture for society.

*“Copyright stimulates creativity and innovation which promotes our cultural heritage.”
(European Regulator)*

3. Arguments criticising copyright

Once again, from the stakeholder responses, we have identified arguments criticising copyright. These include (a) copyright protection is too long; (b) copyright regulation is too strict; and (c) it has not adapted to new technologies.

Copyright protection is too long

Generally, copyright expires 70 years after the death of the creator. After that time, the work becomes part of the [public domain](#). Once in the public domain, copyright is no longer attached to the work and it can be used by anyone without permission. See the [public domain](#) section on **Copyrightuser.org** for more information.

Some stakeholders believe that copyright protection lasts too long and therefore does not balance the different interests fairly.

“An issue of concern is the long duration of copyright protection, which means it takes longer for works to reach the public domain.” (Academic)

Therefore, some stakeholders argue that copyright protection should be shorter so that works can become part of the public domain sooner. This would mean that the public has the ability to access and use the works within a shorter period of time.

“Copyright now endures for so long that by the time it expires it cannot be said to be satisfying its original purposes.” (Archive Expert)

Copyright regulation is too broad

Some stakeholders also argue that copyright regulation is too broad. By this they mean that copyright prohibits too many activities. As a result, it is felt by some that the balance of copyright falls in favour of the copyright owners.

“The cultural objectives of copyright may be undermined by strict regulatory rules in favour of right holders.” (Academic)

One aspect of copyright that determines what activity is allowed without permission, and what is not, are the exceptions to copyright. Copyright exceptions are circumstances in which a person does not need the permission from the copyright owner to use his or her work. These exceptions are explained in detail on **Copyrightuser.org**. They

include [quotation for the purpose of criticism and review](#), [news reporting](#), [education](#), [private study](#) and [parody](#), amongst others. However, some stakeholders believe that the exceptions are too narrow. As a result innovative and new uses of copyright works still require permission. This means that common amateur and non-commercial uses online are often infringing.

“A key problem with copyright and digital technologies is that it has changed the way in which works are commonly used and reused – remixes of songs, or mash-ups of videos, for example, to create new works for non-commercial reasons.” (Academic)

Copyright regulation has not adapted to new technology

One reason that copyright exceptions may be too restrictive is that the current copyright law has not adapted appropriately to new technological uses.

“Current laws take no account of user practices, and should be amended to reflect current digital realities rather than penalising.” (Academic)

Copyright has a close relationship with technology; it must keep up to date with new developments in order to continue to protect the creators whilst still promoting the spread of knowledge.

“The copyright exceptions are not up to date with new uses of material such as mash-ups which limits innovative ways of using and creating new works.” (Academic)

However, the most recent changes to the copyright legislation reflects a new set of exceptions, including an exception for [parody](#) which takes into account the type of user practices identified above.

The **Copyrightuser.org** resource provides an interesting video on [copyright and creativity](#), which highlights that the main challenge for copyright law is to adjust to the rapid changes in technology whilst fulfilling the purpose of encouraging learning and the spread of knowledge in a balanced way.

Therefore, if copyright regulation is not up to date it may be too restrictive and cannot serve its purposes to benefit society by encouraging creativity and developing cultural heritage.

Summary

The purpose of copyright is to promote the creation and spread of knowledge. This can have many benefits for the creators, copyright owners and society as a whole.

However, if copyright is too restrictive it could have a chilling effect on creativity and will not serve its purposes.

Therefore, copyright must strike a fair balance between protecting creative works and allowing the public to use them.

Set out below is a table displaying the main arguments for and against copyright as discussed above.

Arguments <i>Supporting</i> Copyright	Arguments <i>Criticising</i> Copyright
<ul style="list-style-type: none"> • Rewards creators 	<ul style="list-style-type: none"> • Too long
<ul style="list-style-type: none"> • Encourages creativity 	<ul style="list-style-type: none"> • Too broad
<ul style="list-style-type: none"> • Benefits society 	<ul style="list-style-type: none"> • Not up to date

Case Study: Fan Fiction

When someone, other than the original author, creates a new story using the characters from an existing work, this is known as “fan fiction”. Fan fiction is a popular and creative use of works that are often protected by copyright. The legal perspective is that use of the whole or a substantial part of a copyright work without permission is likely to infringe the copyright owner’s rights, unless the use falls within one of the [exceptions](#) or the work is in the [public domain](#).

Authors have mixed opinions on fan fiction. For example, Stephenie Meyer, author of *Twilight*, actively endorses it by linking to fan fiction sites that use her characters from the *Twilight* series. However, George R. R. Martin, author of *A Game of Thrones*, is strongly opposed to fan fiction, as he believes it to be copyright infringement and a bad exercise for aspiring writers.

“My position on so-called “fan fiction” is pretty well known. I’m against it.”
George R. R. Martin.

There are many reasons why an author might be opposed to fan fiction. For example, they may not approve of the way in which the fan fiction uses characters from their works. The fan fiction author may also be able to make money from their use of the author’s work, which the original author could see as being unfair.

However, at the same time fan fiction is usually created and shared by fans of the original works. Therefore, if a copyright owner were to enforce their rights against a fan this would be very controversial.

Sources: Stephenie Meyer: http://stepheniemeyer.com/ts_fansites.html
 George R. R. Martin: <http://grrm.livejournal.com/151914.html>

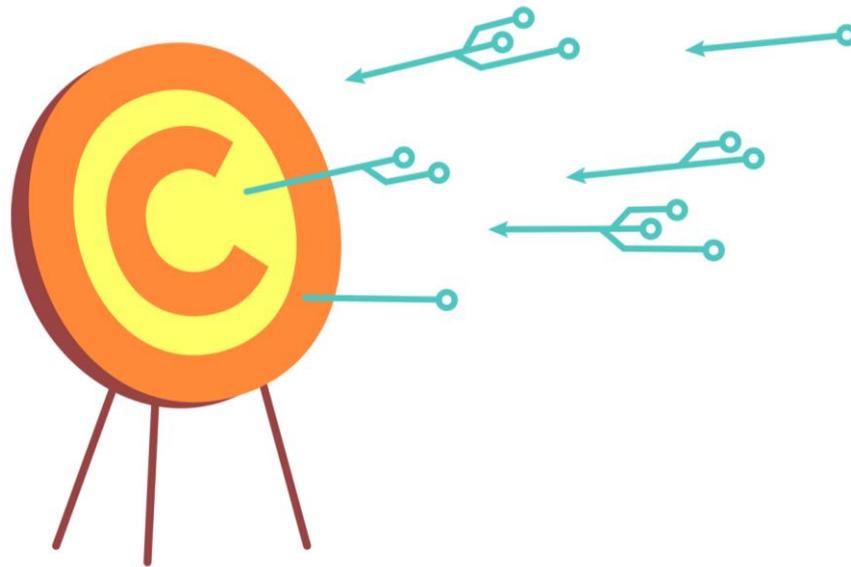
Task: What permission do you need?

Copyright protects creative works in order to promote the spread of knowledge. However, this must be balanced fairly with the interests of the public.

Consider what kind of copyright permission is required in relation to these various scenarios.

1. You want to create a fan fiction video piece using the characters from your favourite film and you want to publish your fan fiction video on a website where other people share their fan fiction stories.
2. You want to publish your fan fiction video on a public video sharing online platform that is not just for fan fiction but also for any type of video such as *YouTube* or *Vimeo*.
3. Your fan fiction video becomes very popular and you are able to make money from it.
4. Do you think this strikes a fair balance between the users and the creators in relation to fan fiction?

Prompt Three



How effective is copyright regulation?

The answers to this question is supported by research undertaken for [Copyrightuser.org](https://www.copyrightuser.org), an online resource which aims to make UK copyright law accessible to creators and members of the public. The material made available on [Copyrightuser.org](https://www.copyrightuser.org) is free to use, share and adapt according to the [Creative Commons Licence](https://creativecommons.org/licenses/by/4.0/) as long as you acknowledge **Copyrightuser.org**. Acknowledging the creator is also a very important requirement under copyright law, as you will learn from the content below. Accordingly, we request that you please acknowledge and reference **Copyrightuser.org** in answering this question.

1. INTRODUCTION

2. PERSPECTIVES ON EFFECTIVE COPYRIGHT REGULATION

3. PERSPECTIVES ON INEFFECTIVE COPYRIGHT REGULATION

See also:

- CASE STUDY: NETFLIX

- TASK

1. Introduction

Prompt One established that the ultimate purpose of copyright is the *creation and spread of knowledge*. Prompt Two discussed the arguments supporting and the arguments criticising copyright regulation. This prompt will consider the different perspectives on the effectiveness of copyright regulation in the digital age taken from the stakeholder responses.

Firstly, we will consider the stakeholder responses of effective perspectives on copyright and the benefits that new technologies have provided for creators, copyright owners and the public. Then we will consider the stakeholder responses which illustrate that copyright has not been effective in responding to technological challenges, such as in relation to territoriality and online copyright infringement.

2. Perspectives on effective copyright regulation

As explained in the two previous prompts; copyright has a close relationship with technology. In order to serve its purpose of promoting the creation and spread of knowledge, copyright must respond to the challenge of new technologies in a fair way by balancing the need to protect copyright works whilst allowing the public to use them in certain circumstances.

Some stakeholders believe that copyright law has effectively responded to the challenges of digital technologies.

“Current copyright laws are basically effective in dealing with digital and network technologies.” (Collecting Society)

“They largely work today, and do not require much further amendment.” (Lawyer)

New ways to create and spread work

New technologies have provided many benefits for creators, copyright owners and the public as a whole. For example, some stakeholders agree that new technology is beneficial in creating new ways to innovate. Technology has also made it cheap and easy to create and so encourages more people to create more material.

“The Internet has been a boon to creativity. Today, more music, more video, more text and more software is being created by more people in more places than ever before. Every kind of creative endeavour, both amateur and professional, is being transformed by the new opportunities and lower costs made possible by digital tools and online distribution. One of the most inspiring things about YouTube is the way people around the world use it to express their passion and creativity – and to turn it into a career.” (Internet Service Provider)

New technologies have also made it much easier and cheaper for creators and copyright owners to *spread* their work as well as allowing the public to access and make use of their work.

“Digital technology and the Internet give everyone the capability to produce and more importantly disseminate material.” (Librarian)

“Technology has made communicating many works very easy and created opportunities for the widespread and efficient use of digital content.” (UK Regulator)

New ways to protect copyright

These digital technologies also provide new ways for creators and copyright holders to safeguard the copyright in their work.

“Technology is advancing and becoming helpful in confronting piracy. We have technology that tells us when our music is popping up online and sends automatic takedown requests which saves us a lot of time.” (Independent Record Label)

“Google’s Content ID system allows rights holders to deliver reference files of their own content to YouTube and allows the rights holder to decide what YouTube should do when matching content is found. Content ID scans over 250 years of video every day. The rights holder can choose to make money from the matching content by adding an advertisement, or they can simply decide to track the viewing statistics, or alternatively they may decide to block the content from YouTube. This system affords copyright owner’s not just an anti-piracy solution, but also a new business model for copyright owners and YouTube alike. The majority of partners using Content ID choose to monetise their claims and many have seen significant increases in their revenue as a result.” (Internet Service Provider)

3. Perspectives on ineffective copyright regulation

On the other hand some stakeholders believe that copyright has not been effective in responding to new technologies.

“Basic principles need to be revisited in the light of changing technology, and ideally drafted in such a way to be able to accommodate future changes.” (Academic)

“Copyright regulation is a disaster. There are glaring and obvious problems such as orphan works (more than 90% of the works in copyright have no easily discovered owners), of licensing (needing a license to sample a short piece of music has become standard), and of concentration of power (there is too much prohibited activity which means that big commercial companies have too much power).” (Activist)

Territoriality

One of the challenges that new digital technologies have brought to copyright is the issue of territoriality. Copyright is a territorial right; this means that the national laws of the country apply. This is a problem because digital Internet technologies are, of course, global.

“One of the biggest problems with applying copyright to digital works in the 21st Century is that while works are available internationally, copyright ultimately functions nationally. For example, you can only access the iTunes Music Store for the UK if you have a British credit card, and Spotify is only available in some countries, but not others, due to licensing restrictions.” (Academic)

This causes a tension because the public expect to be able to access material from all over the world. It can be frustrating for a user to be restricted access as a result of copyright licensing because of their location and where they live. For example, if you pay a licence fee for a service that provides you with creative work, which can be accessed from a device in your country, the use of this service on your device in another country may be restricted.

“The law that applies to individuals, organisations and society is national. On the other hand, digital and networking technologies are global in scope. Not only that, the expectations of people across the world require that information be available to them wherever they are. These two sets of facts are incompatible in the present state of the law.” (Archive Expert)

“It is often found that online licensing restrictions make it impossible to buy music legally. Sometimes, for example, you can't buy an MP3 across an EU border. It should be made easier to legally access the music you love, especially across borders.” (European Regulator)

Online infringement

Another concern that technology has raised for copyright is online infringement. This is when users copy or share copyright protected material without the permission from the copyright owner.

“Online piracy remains a challenge.” (Internet Service Provider)

“Regulators have been challenged by the high volume of copyright infringement online.” (Collecting society)

Digital technologies have made it very easy to access copyright protected work without permission or payment to the copyright owner. As discussed in [Prompt One](#), copyright grants the owners control over the use of their work. However, due to new technologies it can be difficult to stop people infringing their work by copying and sharing it online.

“I have never been more widely published or received so little in payment.” (Photographer)

“Digitisation has been with us for some time now, but changes to a law that largely reflects authoring, and using copyright works in an analogue world are forthcoming very slowly.” (Academic)

In order to serve its purpose of promoting the creation and spread of knowledge, copyright must respond to the challenge of new technologies by balancing the different stakeholder interests in a fair way. Copyright must allow the development of innovation and new technologies for the benefit of society as a whole whilst still protecting a copyright owner’s work.

Summary

The development of new technologies has many benefits for creators, copyright owners and society as a whole. Innovation has developed new opportunities for the creation and spread of knowledge as well as providing new ways to protect copyright works.

However, technological developments raise tensions in copyright regulation. There is a problem with the local nature of copyright being applied to global technologies. In addition, online infringement has caused problems for copyright owners not being able to stop people from copying and sharing their work without their permission.

Overall, in order to serve its purpose copyright must strike a balance between protecting the copyright owner’s work and allowing the public to access it. Copyright must also enable the development of new innovations and technologies for the benefit of society whilst still allowing copyright owners to benefit from their works.

Below is a table displaying the main perspectives on effective and ineffective copyright regulation as discussed above.

Effective Copyright	Ineffective Copyright
<ul style="list-style-type: none">• Technological benefits• New ways to create and spread work• New ways to protect copyright	<ul style="list-style-type: none">• Technological challenges• Territoriality• Online infringement

Case Study: Netflix

Netflix is a provider of on-demand Internet streaming media. Users pay a monthly subscription to have access to a huge catalogue of films and TV shows on demand. It is a

good example of a business that is based on the exploitation of copyright protected material. It has adapted to the digital age and used new technology to enhance its service.

“Fifteen years after launching our subscription service, we have over fifty million members enjoying Netflix in over 40 countries.” (Netflix)

Netflix Inc. agrees licensing deals with copyright owners. They are then able to provide the public with access to the copyright works and the copyright owners get paid. This is a very convenient and cheap way for the public to access a large amount of copyright material and still enabling copyright owners to benefit from their work. Online businesses that are able to utilise copyright in a way that meets the consumers’ expectations could have a positive influence in the reduction of copyright infringement online.

“Piracy often arises when consumer demand goes unmet by legitimate supply. As services ranging from Netflix to Spotify to iTunes have demonstrated, the best way to combat piracy is with better and more convenient legitimate services. The right combination of price, convenience, and inventory will do far more to reduce piracy than enforcement can.” (Internet Service Provider)

However, issues of territoriality can be found to restrict what *Netflix* can provide their customers, depending on what country the customer is accessing the service from. Different countries have different catalogues of material. For *Netflix* to clear the copyrights in each individual country can be time-consuming and expensive.

Source: Netflix Second Quarter 2014 Earnings Interview 21st July 2014
<http://ir.netflix.com/eventdetail.cfm?eventid=147185>

Task: What permission do you need?

Copyright must enable the development of new innovations and technologies for the benefit of society whilst still allowing copyright owners to benefit from their works.

Consider the copyright implications of the following scenarios:

1. You want to watch your favourite film by streaming it online. Consider what kind of copyright permission is required?
2. You want to provide a video streaming website where other people can come and access copyright protected material. Consider what kind of copyright permission is required?
3. Do you think copyright regulation is effective in striking the balance between creators and users?

Prompt Four



What are the wider social issues relating to copyright regulation?

The answers to this question is supported by research undertaken for [Copyrightuser.org](https://www.copyrightuser.org), an online resource which aims to make UK copyright law accessible to creators and members of the public. The material made available on [Copyrightuser.org](https://www.copyrightuser.org) is free to use, share and adapt according to the [Creative Commons Licence](https://creativecommons.org/licenses/by/4.0/) as long as you acknowledge **Copyrightuser.org**. Acknowledging the creator is also a very important requirement under copyright law, as you will learn from the content below. Accordingly, we request that you please acknowledge and reference **Copyrightuser.org** in answering this question.

1. INTRODUCTION

2. DIGITAL SOCIETY

3. FUNDAMENTAL RIGHTS

See also:

- CASE STUDY: PARODY

- TASK

1. Introduction

[Prompt One](#) established that the ultimate purpose of copyright is the *creation and spread of knowledge*. [Prompt Two](#) discussed the arguments supporting and the arguments criticising copyright regulation. [Prompt Three](#) considered the stakeholder perspectives on the effectiveness of copyright regulation in the digital age. In this final prompt we consider the wider social issues relating to copyright regulation.

Firstly, we will look at the development of digital society. Secondly, we will consider the impact of copyright on other important societal rights such as privacy and freedom of speech.

2. The development of digital society

The development of new technologies has had an impact on the way in which people act in society and how they interact with works protected by copyright.

We now live in a time that is referred to as the “digital society”. This means that people are growing up in a world of advanced technology and adapting their behaviours accordingly. This has raised questions for copyright regulation and challenged the credibility of copyright in digital society.

“There is a whole generation who is using copyrighted material in a digital environment only. It is difficult to make what they may regard as opaque and outdated legislation plausible to young people in particular today.” (Academic)

“Whenever copyright makes the general news it never seems to be as part of an up-beat message and there is very little information on why copyright is of importance to all members of society.” (Academic)

Technology has changed the way in which people use copyright works. Copyright regulation must adapt appropriately to allow the public to be creative in their uses whilst still providing copyright owners with protection.

“Rights owners have to recognise that a system that was created in an age of print media needs to adapt radically for an age of digital, global communication, and that they too need to adapt their own expectations and methods of working.” (Archive Expert)

“User Generated Content positions are diverging, the main thing it proved is that the world has changed. Europeans interact with creative content in a way that is itself both often creative and usually instantaneous.” (European Regulator)

“If copyright regulation is not up to date users may be denied the benefit arising from a particular permissible use, despite the fact that this activity may have a justification on the basis of fundamental human rights.” (Academic)

3. Fundamental Rights

As explained in [Prompt One](#), copyright means that the owner can exclude other people from using their work. The copyright owner has the sole right to copy, issue, rent or lend, perform, communicate or adapt their work. (See the [protecting](#) section on Copyrightuser.org.) Therefore, if someone wants to use the whole, or a substantial part of a copyright work they must ask for permission, unless the use falls within one of the [exceptions](#) or the work is in the [public domain](#).

This ability to restrict other people's actions can sometimes interfere with fundamental rights. Copyright needs to balance the interests of the copyright owners and their right to enforce their copyright, against the public interests and the fundamental rights of the people.

"The aim of copyright regulation is to strike a fair balance between the interests of copyright owners and the interests of copyright users. The interests of copyright users include, but are not limited to, respect for their fundamental rights, and in particular their rights to privacy and to freedom of speech." (Judge)

Freedom of Speech

[The Convention for the Protection of Human Rights and Fundamental Freedoms](#) states that everyone has the right to freedom of expression. This means that everyone has the right to hold an opinion and to receive and express information and ideas without interference by public authorities.

This conflicts with copyright regulation's ability to restrict the public's use of copyright protected works. This means that copyright must take steps to ensure that whilst copyright works are protected, the public are still able to make use of the material in certain circumstances.

"Copyright must balance the rights and interests of creators, the demands and needs of end users, the importance of creativity and culture to our society, as well as the wider public interest in access to information and knowledge." (UK Regulator)

Some stakeholders believe that copyright does not strike this balance well and therefore obstructs people's freedom of speech.

"Copyright is an existential threat to free speech. Easy takedown without penalty for misuse is an invitation to bullies and thugs to silence their political enemies." (Activist)

However, on the other hand, some stakeholders believe that appropriate mechanisms are in place to avoid abuse of the copyright system in order to hinder freedom of speech.

"Google works hard to detect and prevent abuses of the copyright removal process. From time to time, we may receive inaccurate or unjustified

copyright removal requests for search results that clearly do not link to infringing content. In 2012, we terminated two partners from the Trusted Copyright Removal Program for Web Search repeatedly sending inaccurate notices through our high volume submission mechanisms.” (Internet Service Provider)

Privacy

[The Convention for the Protection of Human Rights and Fundamental Freedoms](#) states that everyone has the right to respect for his or her private and family life, home and communications. This means that the Government has to ensure that they balance the economic interests of society with people’s rights to privacy.

Copyright regulation must therefore reflect this balance. Copyright must enable creators and owners to benefit from their creations, which also has an economic benefit for society as a whole. However, the regulation must also ensure that when copyright owners are enforcing their copyright they are not breaching others right to privacy.

“There are implications here for privacy and security that have a bearing on future copyright policy.” (UK Regulator)

Some stakeholders believe that copyright enforcement is too strong and therefore interferes with people’s fundamental rights.

“Web-blocking is a disproportionate response to copyright infringement. There were proposals to disconnect whole families from the internet. Disconnecting them from school, social life, employment, access to political and civic engagement and services because someone is accused of watching telly the wrong way is frankly insane.” (Activist)

“The surveillance that is necessary in order to track and enforce copyright is unreasonable - you can’t block my clicks to illegal websites unless you spy on all my clicks.” (Activist)

However, some stakeholders believe that mechanisms are in place to safeguard user’s rights.

“The users can also complete a counter-notice form if they feel that the infringement notice is misguided.” (Internet Service Provider)

Summary

Copyright is not just important to creators and copyright holders but has an important impact on society as a whole. Copyright needs to balance the interests of all the stakeholders, including cultural society, the public interest and in particular the fundamental rights of the people.

“There is a necessity for balance in the copyright system. No side, whether creators and investors or users, has unlimited rights. The principal social issue in copyright therefore is recognition and acceptance by all parties that they cannot have it all their own way. Rights owners have to recognise that a system that was created in an age of print media needs to adapt radically for an age of digital, global communication, and that they too need to adapt their own expectations and methods of working. Users have to accept that free access to and use of everything are incompatible with their desire to see materials created and with the rights of creators and investors.” (Archive Expert)

Case Study: Parody

A parody is using a copyright work in a humorous way. Some people create parodies to make fun of or criticise the original work. Other parodies are used as a tool to make a comment about something in society. Copyrightuser.org has a detailed section on [parody](#).

Parody is a good example of a new type of popular use of copyright material in the digital age. It is also an example of copyright regulation that differs in different countries, as discussed in [Prompt Three](#). Parody is permitted in countries such as the US, Canada, France, Netherlands and Germany. The status of parody in the UK was unclear until very recently. In October 2014, a new [parody exception](#) came into force in the UK, allowing for the use of copyright works to create new parodic works in certain circumstances.

An example of a well-known parody artist is [Weird Al Yankovic](#). He has 766,990 subscribers on *YouTube* with over 324,174,867 views. Yankovic’s album “Mandatory Fun” went to number 1 in America in July 2014; this hasn’t been achieved by a comedy album for over 50 years.

Yankovic uses his parodies for humour but also to comment on society. For example, his recent parody [“Word Crimes”](#) is a comment on the use of grammar to the pop song “Blurred Lines” by Robin Thicke. When creating parodic work, Yankovic asks the artists for their permission out of courtesy even though he is based in America where making a parody is a recognised exception to copyright. However, if he lived in a country where the rules on parody were not clear, Yankovic would not necessarily be able to create his parodies legally unless he had permission.

In a newspaper interview Yankovic explained that creators have different opinions on having their work parodied:

“Only two to three per cent of artists refuse permission.” (Weird Al Yankovic)

Yankovic’s attempts to make parodies of existing work have been refused by artists such as Jimmy Page, Paul McCartney and Prince. However, many artists have granted permission such as Lady Gaga, Madonna, Michael Jackson and Dave Grohl.

Sources: <http://www.telegraph.co.uk/culture/music/rockandpopfeatures/10980129/Weird-Al-Yankovic-why-pops-parody-king-is-no-joke.html>

Task: What permission do you need?

Copyright protects creative works in order to promote the spread of knowledge. However, this must be balanced fairly with the interests of the public, in particular the fundamental rights.

Consider the copyright implications of the following scenarios:

1. Can you make a funny parody of a copyright protected music video in the UK?
2. You want to use parody as a way to express your opinion about something in society; can you do this?
3. Do you think copyright regulation is effective in striking the balance in relation to parody works?

Part III – Supplementary Information

By: **Dr Julian McDougall** (Director: The Centre for Excellence in Media Practice / Associate Professor in Media & Education, Principal Examiner: Critical Perspectives in Media)

Strategies for Case Studies

The Contemporary Media Regulation topic requires students to answer a broader question concerning how effective regulation is. This includes whether regulation should be stricter; how regulation needs to adapt in response to changes in society and developments in technology as well as other important questions about the regulation of media in modern society.

It is always important to choose case studies that offer meaningful comparisons. The following are some suggestions for how to use **Copyrightuser.org** in combination with other case studies:

1. Copyright regulation online compared to the regulation of the press and the Leveson enquiry.
2. Classification of films (e.g. BBFC) compared to regulation of online copyright.
3. Regulation of television advertising compared to online copyright regulation.
4. Internet regulation – control of online gaming content / access compared to online copyright regulation.
5. Press self-regulation (Press Complaints Commission) compared to online copyright regulation.
6. Online copyright regulation compared to the regulation of social media.
7. The regulation of media ownership compared to online copyright regulation.
8. Online copyright regulation in the UK compared to state media regulation in less democratic countries.
9. Comparing online copyright regulation today to offline / older forms of copyright regulation.
10. Videogame / app access regulations compared to online copyright regulation.

Please remember that the OCR specification requires the majority of case studies, texts and examples used to be contemporary, which is defined as from the five years leading up to the exam. Therefore, please make sure you choose recent case studies, or if you are comparing regulation in the present to that of the past, ensure you spend most of your time on what is happening now.

Information for Teachers

This resource offers a cross-media case study that will be most productively used in comparison with a contrasting area of contemporary media regulation, some of which are suggested (see Strategies for Case Studies).

Students preparing for the OCR *Critical Perspectives in Media* exam could use this resource for other topics as well as Contemporary Media Regulation, such as *Media in the Online Age* or *We Media and Democracy*.

Students are required to cover more than one media, but as online media generally converge previously separate forms, using these resources should cover this criteria. The specification also stipulates that they make historical references and discuss future developments. Again, as these regulatory issues present new challenges, looking back to previous approaches to copyright, and discussing the different ways in which future legislation could work, the topic lends itself to these factors.

Media students tend to engage the most with the subject when they are able to analyse and reflect on the 'mediation' of their own lives and culture, and this resource will lead them to think in new, more informed and academic ways about their own use and creation of digital media, and parodic 'remix' media in particular.

The two approaches set up by the specification for this topic lead students to think about how effective media regulation is, whether it is getting harder to regulate media and whether they think media regulation should be stricter or more relaxed. But the 'right answer' is usually 'it depends'. It depends on whose point of view you take, which examples you are using and what you think regulation is for – who it is protecting, from what and on whose terms. These resources are open to such multiple lines of interpretation and students should be encouraged to think of these debates as complex, fluid and ever-changing.

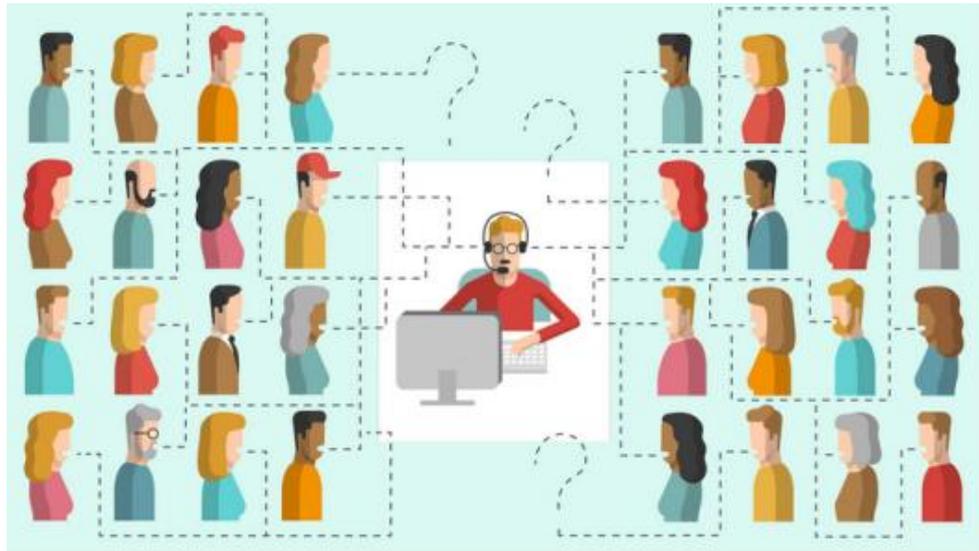
I am delighted to see this fascinating, rich body of evidence from detailed research adapted into these resources for A Level Media students, and hope to see students referencing the research in their work in the future. Comparing the regulatory landscape of online 'citizen media' with, for example, 'old school' arguments about press ownership, film classification or the more recent 'moral panic' about videogame effects, where perhaps the lines of debate are more clearly drawn, will facilitate the kind of 'present tense' media literacy the subject is designed to foster.

Dr Julian McDougall

Director: The Centre for Excellence in Media Practice / Associate Professor in Media & Education

Principal Examiner: Critical Perspectives in Media

Part IV – FAQs, Useful Links and Definitions



Copyright FAQs

Methodology

The FAQs relating to copyright law were arrived at, by using the following methodology. (A more detailed version of this methodology is available at Copyrightuser.org.) An empirical study was designed to detect areas of public uncertainty about the law on copyright, and identify specific areas of concern within the public understanding that could further be used to generate pedagogic materials.

Yahoo Answers was identified as the most appropriate platform for this research as it is the most popular community-driven, question-and-answer site allowing any person to post a question, which can then be answered by way of posts from other users.

Yahoo Answers provides a tool, which enables a user to find questions and answers containing selected search terms. The study sampled all questions, which contained the broad keyword 'copyright' consisting of 'questions and answers written in English', which provided 172,469 results. The sample was then narrowed down by time period, using only those entries of one year old or less – i.e., May 2012-April 2013.

Applying the above criteria for the data-gathering process provided 24,438 results from, which the *first 200* were selected.

Due to the nature of the website, some results were duplicated. Therefore, to retain 200 unique samples and to avoid analysis of the same post twice, identical question and answers by the same users were excluded from the data.

Using qualitative sorting and coding techniques, the initial 200 questions were reduced to [20 key themes](#). In order to assist with this task, the team generated a table of frequency to identify the most commonly repeated words and phrases in the sample.

In addition, the user-generated responses to the questions asked were also recorded and analysed. This included the number of replies received by a given question, as an indicator of either disagreement on the issue or the importance of the issue to the wider community. Using the incorrect answers posted by users generated the “top 10 copyright user myths”. These incorrect answers indicate a strong misconception as the user is not posing a question but incorrectly advising another user on the law.

All of the incorrect and partially incorrect statements were selected from the original data of 200 questions. Each question provided between 1 and 5 answers. Since each answer was written by a different user, all of the answers were considered. A total of 132 incorrect statements collected. These statements were analysed using the same methodology as the frequently asked questions; by first identifying thematic codes and subsequently generating a table of frequency.

Top 20 Copyright FAQs

1. What is copyright and what can be protected by copyright?

Copyright is a form of intellectual property that protects original literary, dramatic, musical and artistic works, as well as layouts or typographical arrangements of published work, sound recordings, film and broadcast.

Copyright gives the creator of the work the exclusive rights to copy, license, rent, lend, perform, show the work to the public, make an adaptation of the work or translate a work. Moral rights, which are similar to copyright, also give the creator the right to be identified as the author of the work; not to have their work changed and the right to object to derogatory treatment of their work. The idea is that by giving authors the right to control the use of their work they can make a living from it and will be motivated to produce new work. What makes copyright a complex mechanism is that it has to encourage learning and the spread of knowledge while securing economic and personal rights to authors and creators. Striking the correct balance is one of the major challenges of copyright law.

It is important to remember that copyright does not protect ideas; it protects expressions of ideas that are fixed in a permanent form, for example, written down or recorded. It might be useful to mark your work with the copyright symbol, your name and the date of creation. However, this is not necessary: copyright arises automatically, no formalities such as registration or copyright marks are required.

See: the [Berne Convention 1886](#) and the [Copyright, Designs and Patents Act 1988](#)

2. How long does copyright last?

In the UK copyright expires 70 years after the death of the creator for written, artistic, musical and film work. However, for broadcasts it is 50 years from when the broadcast is made whilst for sound recordings and performers' rights in sound recordings the term has been extended to 70 years from publication.

The time period runs from the end of the calendar year in which the author(s) died or from when the broadcast or sound recording was made. When copyright expires, the work enters the public domain, meaning that it can be used and re-used for free by anyone without the need to get permission from the copyright owner. You can find more information about the public domain [here](#).

If the creator of the work is unknown then the copyright expires 70 years from the end of the calendar year in which the work was made, or when it was first made available to the public.

See: [Sections 12 – 15A of the Copyright, Designs and Patents Act 1988](#)

3. How do I copyright my work? Is there a formal procedure?

There is no formal registration procedure for copyright; as long as your work qualifies for copyright by being original, it obtains protection as soon as it is in a permanent or fixed form. In UK law, originality is defined as using your own skill, labour, judgement and effort. In other words, what this means is that the work must not be copied from another work; it should originate from the author.

There are steps which you might take to help protect your copyright, should it ever be disputed. For example, you could send it to yourself by special delivery post and leave it sealed. With some types of work – such as scripts and photos – it can be sufficient to send it to yourself by email. There are also copyright registration services available for a fee, which act as similar evidence. However, nowadays this is not as relevant as it used to be, since with computer records the dating of production is almost always possible.

4. Can more than one person have copyright in something?

Yes. Works that are created by more than one person are generally considered to have joint ownership of the copyright. For example, in the UK the first copyright owners of a film are the producer and the principal director. In some cases, different people hold the copyright for different parts of the work, for example a song can have copyright in its arrangement, tune, lyrics, sound recording and performance whilst if the music is packaged into a compact disc (CD) the artwork can have copyright. The copyright in these various elements can be owned by different people.

See: [Sections 9 – 11 Copyright, Designs and Patents Act 1988](#)

5. Who owns the copyright in my work? (E.g. freelancer / employer, photographer / model)

If you create something during your employment, usually it is your employer who owns the copyright in that work. However, this will depend on the contents of your employment contract.

A freelance photographer or writer, for example, usually owns the copyright of the photographs that he takes or the work she produces. However, again, the terms of the contract can change this. Therefore, if the production of your work is handled through a contract you should carefully check all the clauses to understand who owns the copyright and under what terms.

See: [Section 39\(1\) of the Patent Act 1977](#), [Section 11 Copyright, Designs and Patents Act 1988](#)

6. How do I sell / license my copyright? What is Creative Commons?

As the copyright owner in your work, you can sell or license it to others, which could be done through a contractual agreement.

Some creators choose to join a collecting society, who then licenses and collects royalties on their behalf; these include:

[Authors' Licensing & Collecting Society \(ALCS\)](#), [Artists' Collecting Society \(ACS\)](#), [Broadcasting Data Services \(BDS\)](#), [British Equity Collecting Society \(BECS\)](#), [Christian Copyright Licensing International United Kingdom](#), [Christian Video Licensing International United Kingdom](#), [Copyright Licensing Agency \(CLA\)](#), [Design and Artists Copyright Society \(DACs\)](#), [Directors UK \(D-UK\)](#), [Educational Recording Agency \(ERA\)](#), [Motion Picture Licensing Company \(MPLC\)](#), [Newspaper Licensing Agency \(NLA\)](#), [Open University Worldwide \(OUW\)](#), [PRS for Music](#), [Phonographic Performance Limited \(PPL\)](#), [Publishers Licensing Society \(PLS\)](#)

Alternatively, you can visit the [Copyright Hub](#) website which sets out information on how to get permission to use somebody else's work, or how copyright relates to your own work.

Another option is Creative Commons (CC), which are licences that explicitly encourage the free re-use of work. By distributing your work under a Creative Commons licence, you will allow the public to re-use it for free. This should help the dissemination of your work and more generally the spread of knowledge and creativity. For example, on the Copyright User website, we chose to release all content under the most flexible CC licence: Attribution 3.0 (CC BY). This means that all the materials you find on this website (videos, illustrations, texts, etc.) can be re-used on the condition that the authors of this website are acknowledged (credited). You can find more information about how to license your work [here](#), and about the Creative Commons licences [here](#).

See: [Sections 116 – 144A Copyright Designs and Patents Act 1988](#), <http://creativecommons.org/>

7. When I sell my work, do I still hold the copyright?

In the UK, when you sell an analogue copy of your work (e.g. a CD, a DVD, a book), you cannot control the distribution of that physical copy any longer (this is called the exhaustion of rights). This means that the buyer may resell or lend that copy without your consent. However, you still hold both your exclusive and moral rights. So, for example, if you produce and sell an album, the person who buys it can then resell or lend it to his or her liking. But if the buyer wants to use some of the tracks in the production of new work (e.g. a video), he or she has to get your permission and credit you, as you still hold exclusive and moral rights.

Also, the exhaustion of rights does not apply to online distribution, meaning that if you purchase something online (e.g. a song from iTunes), you cannot resell or lend the digital copy of that work. Usually in these cases the end-user licence states what you can or cannot do with that work.

8. Do I have copyright in my work in other countries?

Copyright law is territorial, meaning that the rules that matter are the rules of your own country. However, there are international agreements which protect your work under the laws of most other countries.

Signatories to the Berne Convention (UK has been a signatory since 1887) recognise the copyright of works of authors from other signatory countries in the same way as it would recognise the copyright of its own nationals. This means that UK copyright law will apply to a work published or performed in the UK, although it may have originated in Italy. This is because both UK and Italy are signatories to the Berne Convention.

If the work is copied in another jurisdiction, it will first depend on whether the copied work can come under one of the copyright exceptions of the international agreements (see below). Where a work is copied within a European Member State, the [current regulation](#) states the case will generally be heard on where the person lives or is domiciled. If the copying has been done outside the European Union and it leads to a court case, then, the law of that relevant jurisdiction, where the copying took place will apply.

See: [The Berne Convention, Trade-Related Aspects of Intellectual Property Rights Agreement \(TRIPS\), WIPO Copyright Treaty](#)

9. What do I do if someone infringes my copyright?

Infringement of copyright occurs when someone takes either all of your work, or a substantial part of it, without permission. However, there are several exceptions which allow a copyright work to be used without permission.

If someone has infringed your copyright you could contact them directly, consider mediation, or seek legal advice. If you decide to take legal action, there are a number of remedies that you can seek from the court.

The infringer can give a promise, known as an undertaking, that they will license the work from you, under terms that you agree.

The court can grant an injunction. This means that the judge will make an order to stop the person from using your work. This could also mean having your work returned to you or seizure of any infringing copies.

The court may also award damages. This may be with an order for damages; to restore you back into the position that you would have been in if the infringement had not occurred. Or it may be an account for profits; where the profits gained by the infringer are assigned to the original copyright owner.

Action against copyright infringement can be taken by the copyright holder or someone who has full licence of the work. It is also possible to take action against infringement of moral rights. So, even if you have sold your copyright to a publisher, for example, you can still assert your moral rights, such as objecting to derogatory treatment of your work. The court may grant an injunction to stop the person doing the derogatory act against your work.

See: [Sections 96 – 115\(3\) Copyright, Designs and Patents Act 1988](#), [The Copyright Tribunal](#), [The Intellectual Property Office Mediation Service](#)

10. What can I borrow from someone else's work? Where is the line between inspiration and copying?

Copyright protects only the expression of ideas, not the ideas themselves. For example, two artists may paint the same scene but portray them in ways that are slightly different, without infringing each other's copyright. At the same time, the fact that the series *Lost* is copyright protected does not prevent you from writing a story about a number of people who are forced to live on a remote island after a plane crash.

Taking inspiration from someone else's work is therefore acceptable, but in order to have copyright in your work and avoid infringement you need to create something original by using your own skill, labour, judgement and effort. Using another's work is copyright infringement when 'the work as a whole or any substantial part of it' has been copied. The precise meaning of these concepts is defined on a case-by-case basis and the court considers it to be a matter of quality and not quantity.

You can also find more information about re-using someone else's work [here](#).

11. Do I always need to get permission to use other people's work? Is it enough to credit the author/artist?

If you want to use a piece of work that is still in copyright, you will need to [seek permission](#) from the copyright holder; acknowledging the author is important, but not

enough. When seeking permission, remember that sometimes the copyright owner is not the original creator; it can be the record label or producer, for example.

However, there are circumstances when works can be used without seeking the copyright holder's permission. These are known as copyright exceptions. They include fair dealing for [quotation for the purposes of criticism review, news reporting, education, private study](#) and [parody](#). Each exception has very specific criteria which you must meet in order to benefit from them.

Also, you do not need to obtain permission to use works that are in the [public domain](#).

12. What about a cover, remix, mash-up or edit?

Creating your own version of someone else's work, including editing or remixing is referred to as a derivative work. Unless you benefit from one of the copyright exceptions mentioned above or the materials you want to edit are in the public domain, you need to seek permission from the copyright holder first in order to avoid infringement claims.

13. How do I get permission to use other people's work?

The best way to [get permission](#) to use someone else's work is to ask them. Contact them via email or make a phone call and find out if they are happy for you to use their work and on what terms. For certain types of use the most effective way to get permission is to obtain a licence from collective licensing organisations.

If the copyright owner is unknown, getting permission becomes particularly difficult. This type of material is referred to as an [orphan work](#).

14. Where can I find copyright-free material?

All works that are in the public domain are out of copyright and free to re-use. You can find more information about public domain materials [here](#). If a work is distributed under a Creative Commons licence, you can re-use it for free under the conditions set by the licence.

Copyright-free material can be difficult to find but luckily there are some archive services to help you out. Here are some suggestions:

[Wikimedia Commons](#) – Wikimedia Commons is a database of millions of freely usable media files, like images, sounds and videos.

[The Prelinger Archives](#) – The Prelinger Archives are a collection of movies that are believed to be in the public domain in the US. However, you need to bear in mind that copyright law is territorial, meaning that the fact that a work is in the public domain in the US

does not necessarily mean that it is in the public domain in the UK as well. To find out how to know if a work is in the public domain in the UK, read more [here](#).

[Incompetech](#) – Incompetech is a collection of songs produced by the American artist Kevin MacLeod and distributed under a Creative Commons licence. You can freely use all the songs originally produced by Kevin MacLeod under the only condition of crediting the author.

More resources can be found [here](#).

15. Is it okay to use other people's work just for personal use?

In terms of copyright infringement in the UK, there is no distinction between personal and commercial use. Using someone else's work without permission or payment, outside of the copyright exceptions, is an infringement of that person's copyright.

16. Is it okay to change the format of something? Can I translate something?

Changing the format of a work – known as format shifting – can be an infringement of copyright. On 1 October 2014, a [private copying exception](#) for format shifting was introduced into UK law so that people can make copies on different media for their own use. You can find out more information about the private copying exception [here](#)

In terms of a translation, UK law states that it is an infringement to adapt a work without permission, which includes a translation.

See: [Section 21\(3\)\(a\)\(i\) Copyright, Designs and Patents Act 1988](#)

17. Can I take an image from Google search?

You cannot download or use images from Google without seeking permission from the copyright holder, unless your use falls within one of the exceptions. Google is simply a search engine that scans the internet and provides the searcher with any relevant results – copyright holders do not upload their images to Google for free use. If you click on the image you are usually guided to the source website where you might be able to contact the copyright holder for permission.

18. What are the copyright rules for YouTube videos?

If you are uploading or downloading videos to or from YouTube in the UK, then UK copyright laws apply. YouTube is a platform for video sharing online and it is the users who are responsible for complying with the laws of copyright.

If you upload a video that is infringing someone's copyright, the owner of that copyright can inform YouTube, who will then send you a warning and remove the video. If the video has been incorrectly removed because you benefit from a copyright exception, you can send a 'Counter Notification' to request for the video to be reinstated. You can find the webform for this in the Copyright Notices section of your YouTube account. When you submit this form, YouTube will forward it to the copyright owner who made the original claim of infringement, along with your personal information.

In some instances, the copyright holder may allow the video to remain on *YouTube* if you agree to let them show an advert at the beginning. The user policy for *YouTube* is that after three copyright infringement warnings the user's account is suspended.

See: [YouTube terms and conditions](#)

19. What should I do if I receive a copyright infringement notice?

The textual content of the website has been produced by leading copyright academics and is intended to be accurate and authoritative. However, it does not constitute legal advice. If you have received a copyright infringement notice, you might need professional legal advice. Also, you can contact the Citizens Advice Bureau, which provides free, independent and confidential advice: <http://www.adviceguide.org.uk/>

20. What is the difference between copyright and other rights such as trademark or patent?

Copyright is one type of intellectual property right. The other statutory IP rights include Trade Mark, Patents and Designs, each for different purposes.

Copyright is an automatic right which protects original literary, dramatic, musical and artistic works.

A Patent is a registered right that gives the owner exclusive right to features and processes of inventions.

A Trade Mark protects logos and signs that are used in relation to a particular type of product or service.

A Design right protects the visual appearance of an object or part of an object.

Trade Marks and Design rights can be registered or unregistered.

For more information and other types of protection see: www.ipo.gov.uk, www.wipo.int

Useful Links

[1709 Blog](#): In 1709 the Statute of Anne created the first purpose-built copyright law. This blog is dedicated to all things copyright.

[BBC Filmmaking Guide](#): Common filmmaker questions answered by Tara Pietri, a Solicitor specialising in Film.

[CEMP](#): The Centre for Excellence in Media Practice has developed a range of online tools which are now widely used in education and in industry.

[CIPPM](#): The Centre for Intellectual Property Policy & Management (CIPPM) is part of the Faculty of Media and Communications at Bournemouth University, UK. CIPPM was established in 2000 and has rapidly achieved an international reputation for its innovative policy research and its consultancy projects, in particular in the fields of creative industries and emerging technologies with specific focus on copyright law.

[CREATe](#): The CREATe Centre, consisting of the offices of a core of individual researchers, and a conferencing facility, is a physical central resource and hub which manages and supports the activities of the CREATe consortium, hosted by the School of Law at the University of Glasgow.

[Copyright Hub](#): The Copyright Hub aims to make licensing simpler and provides information about how you can get permission to use somebody else's work, or how copyright relates to your own work.

[EFF](#): The Electronic Frontier Foundation is the leading non-profit organization defending civil liberties in the digital world.

[UK Intellectual Property Office](#): The UK IPO is the official government body responsible for Intellectual Property (IP) rights in the United Kingdom. These rights include: copyright, trade mark, design and patent.

[World Intellectual Property Office](#): WIPO is the global forum for intellectual property services, policy, information and cooperation.

Definitions

Collecting society: a collecting society is an organisation who licenses copyright works and collects royalties on behalf of creators. For example, if a bar owner wants to play music in his bar, he makes payments to the creators through the collecting society. These include: [Authors' Licensing & Collecting Society \(ALCS\)](#), [Artists' Collecting Society \(ACS\)](#), [Broadcasting Data Services \(BDS\)](#), [British Equity Collecting Society \(BECS\)](#), [Christian Copyright Licensing International United Kingdom](#), [Christian Video Licensing International United Kingdom](#), [Copyright Licensing Agency \(CLA\)](#), [Design and Artists Copyright Society \(DACS\)](#), [Directors UK \(D-UK\)](#), [Educational Recording Agency \(ERA\)](#), [Motion Picture Licensing Company \(MPLC\)](#), [Newspaper Licensing Agency \(NLA\)](#), [Open University Worldwide \(OUW\)](#), [PRS for Music](#), [Phonographic Performance Limited \(PPL\)](#), [Publishers Licensing Society \(PLS\)](#)

Creative Commons Licence: A Creative Commons licence is a type of copyright licence that gives people the right to share, use, and even build upon a creative work. You can read more about [Creative Commons on Copyrightuser.org](#) and also on the website of the [Creative Commons Organisation](#).

Internet service provider: For the purpose of this resource, the term internet service provider is used to reflect the stakeholders Google and Spotify, as they are companies that provide services online. However, the legal definition of internet service providers also includes companies that provide internet access.

Orphan works: A work – such as a book, a piece of music, a painting or a film – in which copyright exists, but where the copyright owner is either unknown or cannot be located is referred to as an [orphan work](#).

Public domain: When copyright expires, the work enters the public domain, meaning that it can be used and re-used for free by anyone without the need to get permission from the copyright owner. You can find more information about the public domain [here](#).

Record label: A record label is an organisation that market and sell music for the creators. They have licence agreements with the artists and pay them royalties when their music is sold.

Part V – Contributors and About the Resource

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About the Resource

This educational web resource and PDF document is part of the already established Copyrightuser.org, an independent online resource aimed at making UK copyright law accessible to creators, media professionals, entrepreneurs and members of the public.

Copyrightuser.org is a joint collaboration between Bournemouth University's Centre for Intellectual Property Policy & Management - [CIPPM](#) – and RCUK Centre for Copyright and New Business Models in the Creative Economy – [CREATE](#) at University of Glasgow.

Disclaimer: Copyrightuser.org is based in the UK, so the content here reflects what is permitted under **UK copyright legislation**. Copyright law is rapidly evolving, and we will make every effort to maintain up-to-date resources on this site. The textual content of the website has been produced by leading copyright academics and is intended to be accurate and authoritative. However, **it does not constitute legal advice**.

This resource reflects the new copyright exceptions which came into force on 1st October 2014. Further information about the new exceptions can be found [here](#).