**Copyright Guidance for NSPCI Congregations Using Facebook and/or YouTube**

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11. *What is copyright and what does it protect?*

In most countries, copyright is a legal right that protects original works of authorship.

Typically, if you create an original work, you have a copyright from the moment you create it.

In many countries, when a person creates an original work that is fixed in a physical medium, they automatically own copyright to the work. As the copyright owner, they have the exclusive right to use the work. Most of the time, only the copyright owner can say whether someone else has permissions to use the work.

Copyright covers a wide variety of types of works, including:

* Visual or audio-visual works: videos, movies, TV shows and broadcasts, video games, paintings, photographs
* Audio works: songs, musical compositions, sound recordings, spoken word recordings
* Written works: books, plays, manuscripts, lectures, articles, musical scores

Please note, only an original work is eligible for copyright protection. To be original enough for copyright protection, a work needs to be created by the author themselves and have some minimal amount of creativity.

Generally, names, titles, slogans or short phrases aren't considered to be original enough to qualify for copyright protection. For example, the symbol “+” is likely not subject to copyright, but a painting full of shapes and colours arranged in a unique pattern is likely protected by copyright.

Copyright generally doesn’t protect facts or ideas, but it may protect the original words or images that express a fact or idea. This means that you may be able to express the same idea or fact as another author, as long as you don’t copy that author’s way of expressing that idea or fact. For example, a playwright may not be able to copyright the idea of a man waking up to repeat the same day over and over again, but the script for a play or movie expressing that idea could be subject to copyright.

1. *How do I know if I own the copyright in a work?*

In general, the person who creates an original work owns the copyright. For example, if you create a painting, you likely own the copyright in that painting. Similarly, if you take a photo, you likely own the copyright in that photo.

There may be situations where you might think you have a copyright in an original work, but you may not. For example:

* If you appear in a photo or video, that doesn’t necessarily mean you have a copyright in that photo or video.
* If you take a photograph of a sculpture, that doesn’t mean you have the right to prevent someone else from also taking a photograph of the same sculpture.
* If you create a work as part of your regular job responsibilities, you might not be the owner of the copyright in that work. Instead, there are circumstances where the law will consider your employer to be the “author” of that work for copyright purposes.

If you’re not sure about the extent of your copyright in an original work, you may want to seek legal advice on your rights.

1. *How can I make sure the content I post to Facebook doesn’t violate copyright law?*

Under Facebook's Terms of Service and Community Standards, you can only post content to Facebook that doesn’t violate someone else's intellectual property rights. The same is true for YouTube. The best way to help make sure that what you post doesn’t violate copyright law is to only post content that you’ve created yourself. It's possible to infringe someone else's copyright when you post their content, even if you:

* Bought or downloaded the content (e.g. a song from iTunes)
* Recorded the content onto your own recording device (e.g. a song playing in the background during a party, concert, sporting event, wedding, etc.)
* Gave credit to the copyright owner
* Included a disclaimer that you didn’t intend to infringe copyright
* Didn’t intend to profit from it
* Modified the work or added your own original material to it
* Found the content available on the internet
* Saw that others posted the same content as well
* Think the use is a fair use

Before you post content, you may want to ask:

* Did I create all of the content myself?
* Do I have permission to use all of the content included in my post?
* Does my use of the content fall within an exception to copyright infringement?
* Is the content protected by copyright (e.g. is it a short phrase, idea or public domain work?)

It’s generally a good idea to get written permission from the author of the work before posting content. You might be able to use someone else’s content on Facebook and YouTube if you’ve gotten permission from them, such as through obtaining a license. You also may be able to use someone else's content if it's in the public domain, is covered by fair use, or there is another exception to copyright.

1. *What is fair use?*

Fair use is a legal doctrine that says you can reuse copyright-protected material under certain circumstances without getting permission from the copyright owner.

Laws across the globe recognize that strict application of copyright laws in certain cases may be unfair or may inappropriately stifle creativity or stop people from creating original works, which would harm the public. These laws allow people to use, under certain circumstances, someone else's copyrighted work. Common examples include use for the purpose of criticism, commentary, parody, satire, news reporting, teaching, education and research.  You may want to seek legal advice if you have questions about the possibility to use someone else’s copyrighted work within the limits set by the law.

Though it can be difficult to know whether a particular use of copyrighted work is a fair use, the following are some factors you can consider:

* **The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes:**

Does the use transform or change the original work by adding new meaning, context or expression? For example, using a fashion photograph to discuss the amount of photo editing used in the photograph is more likely to be fair use than simply posting the photograph without comment. Parodies may be fair use if they imitate a work in a way that criticizes or comments on the original work.

Is the use commercial or purely personal? Commercial, or for-profit uses are less likely to be considered fair use.

* **The nature of the copyrighted work:**

The use of factual works like maps or databases is more likely to be fair use than the use of highly creative works like poems or science-fiction movies.

* **The amount and substance of the portion used in relation to the copyrighted work as a whole:**

The use of small portions of a copyrighted work is more likely to be fair use than copying an entire work. But even if only a small portion is used, it is less likely to be fair use if that portion used is the most important piece — the “heart” of the work.

* **The effect of the use upon the potential market for or value of the copyrighted work:**

Will the use replace the original work such that people stop buying or viewing the copyrighted work? If so, this is less likely to be fair use.

1. *Can I still violate another person’s copyright if I didn’t intend to infringe?*

It's possible to infringe someone else's copyright, even if you don't intend to do so. In most cases, you shouldn’t use someone else’s copyrighted work if you don’t have permission.

Keep in mind that your use of someone else’s content may infringe their copyright, even if you:

* Gave credit to the copyright owner
* Included a disclaimer that you don’t intend to infringe copyright
* Think that the use is a fair use
* Didn’t intend to profit from it
* Bought or downloaded the content (e.g. a copy of a DVD or a song from iTunes)
* Modified the work or added your own original material to it
* Found the content available on the internet
* Recorded the content onto your own recording device (e.g. from a movie, concert or sporting event)
* Saw that others have posted the same content as well

1. *A video I posted on Facebook was removed immediately. What happened, and what are my options?*

If you tried to post a video and it was immediately removed, it may have been identified as potentially containing someone else’s copyrighted content. This could include video, audio or both.

If your video was removed for copyright reasons, you'll receive an email and a notification about the removal. Please use the information you receive to learn more about your options, such as confirming that you have the right to use the copyrighted work and you still wish to post the content.

1. *What happens if I repeatedly post content on Facebook that violates someone else’s intellectual property?*

If you repeatedly post content that infringes someone else’s intellectual property rights, such as copyrights or trademarks, your account may be disabled or your Page or Group removed under Facebook’s repeat infringer policy.

Under this policy, your ability to post photos or videos may be limited, and you could also lose access to certain features or functionality on Facebook. The actions taken under the policy may depend on the nature of the reported content and where it was posted.

If something you posted is restored due to an appeal or because a rights owner withdrew their report, Facebook say that they will take that restoration into account under their repeat infringer policy.

1. *Why was content I have permission to use removed or blocked on YouTube?*

If you have the rights to use copyright-protected material in your video, give your video’s title and URL to the original copyright owner. This action can help you avoid a mistaken removal or block.

If your video was removed by a copyright takedown in error, you can:

* Request a retraction from the claimant
* Submit a counter notification

If a Content ID claim that you feel is mistaken blocked your video you can dispute it. However, before you submit a dispute or send a counter notification, ask yourself a few questions:

* Are you the copyright owner of the material in the video?
* Do you have permission to all third-party material in your video from the appropriate owner?
* Is your video covered by fair use?

If one of the conditions above applies to your video, you may want to research the most appropriate dispute process or seek legal advice. If not, you may be in violation of copyright laws.

1. Why was content I recorded or purchased myself removed?

Just because you purchased content doesn't mean that you own the rights to upload it to Facebook or YouTube. Even if you give the copyright owner credit, posting videos that include content you purchased may still violate copyright law.

Also, just because you recorded something yourself does not always mean you own all rights to upload it to YouTube. If your recording includes someone else's copyrighted content, like copyrighted music playing in the background, you’ll still need permission from the appropriate rights owners.

1. *Further Reading*

The above information was taken from advice to users given by both Facebook and YouTube. For more information see:

* <https://www.facebook.com/help/1020633957973118> (for Facebook)
* <https://support.google.com/youtube/topic/2676339?hl=en&ref_topic=6151248> (for YouTube)