

Rotary and copyright

What's the issue?

Rotary in Great Britain & Ireland has recently had to deal with two claims of copyright breaches where clubs had published pictures on their website for which they did not own the copyright. Copyright is becoming a big issue, particularly on the internet, with breaches now being enforced more frequently than they used to be. If you publish someone else's content without permission, you could expect an invoice.

What is the law?

Copyright is protected under the Copyright, Designs and Patents Act 1988.

What does the Act protect?

The Copyright, Designs and Patents Act 1988 protects work which has been written, photographed, filmed and designed.

It includes:

- Written content - this includes all kind of text, whether handwritten, printed or online.
- Music.
- Photographs, logos, maps, sketches, paintings and graphics – even if they are modified to create a new image.
- Audio recordings.
- Films, TV programmes and videos.
- Magazine or newspaper design; the fonts, colours and layout - so don't copy wholesale the design of *The Sun* for your District newsletter, and then pass it off as your own!

How would you define copyright?

Copyright law is simple: if you do not own the copyright, then someone else does. Copyright covers the products of someone's skill, labour, creativity and time. Work must be 'fixed' in order for copyright to apply. That is, it must be written down, recorded, filmed, inputted onto a computer, photographed etc. You can lift news, facts, ideas and information from other sources, provided you use your own skill, labour, creativity and time to create a new, original work.

Who owns the copyright?

The author or creator of the work owns the copyright. So the photographer who took the photograph is the copyright holder, as is the writer of an article. They are all known as the 'first owners' of copyright.

Can anyone else own the copyright?

If the 'first owner' is working, for example, as a freelance, or is in contracted employment, then the copyright passes to the agency or employer as part of any contract or sale of that material.

What are moral rights?

Anyone who commissions a photograph for private use has the moral rights to prevent it from being used in a public way (e.g.: in newspapers, TV, online, advertising). This has implications for journalists who borrow (or 'pick-up') photos from people, to use with articles. Using 'pick-up' pictures can create two copyright problems. They can breach the copyright of the person who took the picture, as well as the moral rights of the person who commissioned it.

What about copying photos from the internet?

This is dangerous. Even though the material is easily accessible on the internet, and available on sites such as Google Images, this does not give anyone the right to copy and publish. There are free image sites on the web, but check carefully.

What about copying photos from social media (e.g.: Twitter, Facebook & Instagram)?

Still on dangerous ground. You will not only be infringing the copyright of the person who took the photograph, but you may also infringe copyright restrictions on the website. Essentially, you would need to gain consent from the person who took the photograph, plus permission from the person who first commissioned the image (e.g.: a couple who booked a photographer to take photos of their wedding).

Are there any problems reproducing comments which have been published online (e.g.: Facebook and Twitter)?

No, you can freely publish the comments so long as they are published on a public social media platform, where there are no privacy restrictions.

So what's the solution if I want an image?

Simple – just ask the author/creator. If they want payment, then you can take a view as to whether it is worth publishing. However, often for non-commercial organisations such as Rotary, the author/creator will gladly waive the copyright so long as you post a credit to them or a link to their website.

Would you face any difficulty lifting an article from another publication or website?

If you lifted the article wholesale, then yes. If you see something worthy of republication, then contact the author to ask. Most likely they will say yes, possibly without payment, so long as you give them a credit, and add a link to their website or email address. If you republish an extract and credit the source, then this will be fine. But it would be good practice to ask in the first place. Persistent lifting of facts from another publication, even if they are rewritten each time, could be regarded as an infringement.

What about republishing articles from *Rotary* magazine or *The Rotarian*?

For District and club magazines and websites, there are no issues here, because you are publishing something within the Rotary family and not for profit or gain. It would be good practice to credit the source. For images, don't just lift pictures off the website with a right click and 'save image as', contact Rotary in Great Britain & Ireland or Rotary International to ask for the original. We receive a number of requests to publish content which has first appeared in *Rotary* magazine from outside publications, both in this country and abroad. The policy is to agree to publication, copyright-free, so long as credit is given to *Rotary* magazine and our website – www.rotarygbi.org If we have published images, for example, whose copyright is owned by a third party, we will check with the creator whether that content can still be reproduced in another publication or website.

What is the score with reproducing images and articles which you don't own the copyright for as part of an internal presentation?

So long as the presentation is not for wider public consumption and is not published online or made freely available afterwards, then you are fine. So don't email the presentation, or post it on social media.

What about posting a hyperlink to a website, does this breach copyright?

No, it does not. The European Court of Justice ruled in 2014 that a news-monitoring website's use of hyperlinks, to direct its reader to items carried on another website, did not infringe copyright since that material was freely available online.

Are there any issues with publishing images of children in a magazine or online to publicise a Rotary activity?

This has nothing to do with copyright, but it is a privacy issue. You should always be wary of publishing any images of children, under the age of 18, without consent. Make sure you have secured the permission of a parent, guardian, school or youth organisation before you do so.

How long does copyright last?

Copyright in a literary, dramatic, musical or artistic work lasts for the author's lifetime, and then a further 70 years from the end of the calendar year in which he/she dies. The copyright can be bequeathed to the creator's heirs. The duration is the same, even if the copyright is owned by an employer or has been assigned to a company.

For the record, copyright of computer-generated music or graphics lasts for 50 years, copyright for a broadcast also lasts for 50 years, and copyright for sound recordings lasts 70 years.

What are the legal implications for breaches of copyright?

There are three main outcomes:

- The copyright holder can impose an injunction to prevent publication.
- The copyright holder can sue the person who breached the copyright for damages and for any profits made.
- The copyright holder can ask for all copies of the work to be handed over and destroyed.

Are there any defences for breaching copyright?

There is a fair dealing and also a public interest defence. Fair dealing means fair practice, so a publisher should not take unfair commercial advantage of the copyright owners for excessive publication of a copied work. The public interest defence is very narrow – let's not go there!

The bottom line?

No matter how small or innocuous the item, check the source of any images or material, ask for permission to use it, credit the copyright owners and be expected to pay. If you are unsure, or have any legal concerns, then contact me: editor@rotarygbi.org

Sources:

McNae's Essential Law for Journalists (Mike Dodd, Mark Hanna).

Online Law for Journalists (Cleland Thom).

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