

Copyright = NOT a right to copy

Some editors of photographic club magazines or newsletters do not realise they are committing criminal acts when they copy and paste articles and images from the internet without the author's permission

Cyberspace is a confusing place. Especially if people are unfamiliar with the special rules and regulations. For example, a person who would recoil in horror at the thought of taking another photographer's camera for their own use, would not dream that they are committing a similar crime (cybercrime) when they copy and paste images and an article from the internet and publish it in their club's magazine.

Intellectual property is as much someone else's property as physical property. Online articles and images therefore receive as much protection from the law as cameras. And the law is equally unforgiving when you steal either of them.

The Copyright Act of 1978 makes it clear that any literary work and photograph is the intellectual property of the author and that if you are found guilty of infringing his/her rights you can be fined or sent to jail. The amount and length of sentence depends on how many times you transgressed. The onus rests on the author to prove ownership – but, often editors make this easy when they publish the website from where they copied an article.

The fact that so many editors of club magazines entered their publications with articles clearly copied from online sources - without indicating that they received the author's permission - in this years' PSSA Club Magazine Competition, indicates that they are unaware that they are actually breaking the law.

A reason for this could be that they are misinterpreting the language and rules that regulate online publishing.

Free copy is not free to copy

The use of the word "Free copy" confuses many unsuspecting editors. This means that the copy on a specific site is free to be read and enjoyed without a paid subscription – it does not mean that you may take it to use in your publication. Copy on some online sites can only be read by paid-up subscribers, others allow everybody who is interested to read it free of charge – hence, "free".

If it is freely available to all, would I not do them a favour by promoting their article in my publication? Besides, what do they lose if it is already freely available? a transgressing editor may argue.

Ah, but that kind of reasoning displays a lack of understanding of how online publication works.

Firstly, by copying and pasting the online article in your publication you do the author – and/or website (not necessarily the same) - a great disservice. The online publications world is regulated by "visits", "clicks", "followers", etc. and the more of these a specific site or author receive, the more they benefit financially and in prestige. If you divert online readers away from their site by publishing their material in your publication you deprive them of this.

Specifically:

- The number of people visiting a website/blog or clicks/opening of articles by a specific author at source determine if a site can attract advertising;
- The frequency of people visiting a site determines how much they can earn from Google advertising;
- An author who attracts a lot of interaction with online features becomes attractive to brands looking for individuals to sponsor;
- If the author is already sponsored by a brand, a high number of visits to the website or article will enable them to negotiate a higher fee from sponsors.

Therefore, if you deprive the author you admire from income by deflecting readers from the author's site to your publication, you are actually stealing income from him or her.

Read the small print

Often editors would focus so much on the word "free" in relation to copy, that they completely miss those vexing small print referring to "copyright" of "terms of use".

Copyright is not an abbreviation for "the right to copy": it means that somebody has the right to claim intellectual protection rights for this specific copy or website. "Terms of use" usually specifies how you may apply to the author/site owner to use the content.

For example, the Digital Photography School – a popular source for many club magazines - specifies under their Terms and Conditions: *D4 Communications Pty Ltd owns the intellectual property rights in the contents of this website, or has permission to use or display the material on this website. You may not use, copy, display, distribute, modify, translate, reformat, incorporate into advertisements and other works, promote, create derivative works, or in any way exploit or allow others to exploit any of our website content in whole or in part except as expressly authorised by us. Please contact editor@digital-photography-school.com if you require permission to reproduce any of the contents of this website.*

Another popular site, photography.tutplus.com has the following terms of use:

22. We, or our instructors, own or have licensed the rights in the content. We also own the rights in the design, compilation and look and feel of the sites. This includes intellectual property rights like copyright.

What you can't do with content

23. Our business, and that of our instructors, is based on intellectual property (IP) including copyright. We need to protect our IP so we can keep giving you access to awesome content.

24. You agree that you won't redistribute, frame, repurpose or copy content (unless specifically allowed in these terms), and you won't use content for any purpose that we have not expressly stated. If you love our content, please send others to the sites rather than send the content to them!

An Australian site, Vamp, also featured in a local club magazine. It states the following under terms of use:

(2) Subject to clause 7.3, Vamp (on behalf of Vamp Australia) grants the Client a licence to use the Materials and IPR in the Materials referred to in clause 7.1(1) in accordance with the Usage Rights. The Client must not use nor make copies of any Materials or IPR in connection with any work other than work comprised in this Agreement and forming part of the Services unless express written approval is given in advance by Vamp (on behalf of Vamp Australia).

(3) For the avoidance of any doubt, except as referred to in the Usage Rights, no Materials produced pursuant to the Services may be edited, reproduced, adapted, uploaded to a third party, linked to,

framed, performed in public, distributed or transmitted in any form by any process without Vamp's written consent.

7.2. Additional Usage Rights For the avoidance of doubt, no Additional Usage Rights in Materials or IPR in the Materials are granted until the relevant Additional Usage Right Fee is paid to Vamp in full by the Client.

When you apply for a “license” to publish material, the copyright owner will specify how prominent, and in which format the article and images may be reproduced. They will also specify how you should indicate that you had received permission to reproduce the article.

This license fee is usually payable when you stand to gain financially from the use of the material. A copyright holder will usually grant permission to an educational, not for profit, publication like a club magazine to reproduce the material without paying a license fee. The crucial factor is, however, whether you asked permission.

Over many years I have asked numerous authors and publications for permission to use their articles, music, or images. All of them have always granted permission. As a publisher of business-to-business publications we have often received requests to reproduce articles or to use information from articles – and always granted permission. But, in the few instances when we became aware that our articles or research had been used without asking for permission, we had taken action.

Nowadays, there is no place to hide online. By copying a few lines from an article in Google and clicking “search” all sites where similar wording is detected appear in the search engine ... and you will be exposed as a plagiarist. This is a trick that most editors know and regularly use – probably because submitting articles based on other people’s work has sadly become so prevalent.

Why copy?

Another question the magazine editor should ask him/herself is: WHY? What do I gain by publishing somebody else’s work in my publication?

Worldwide, custom publications – published for a specific company or interest group, like club members – flourish because they publish unique articles specifically for their target audience, about their target audience, and by their audience, which cannot find elsewhere. Therefore, the views of someone known to your club members – like a top club photographer – about a specific genre or technique carries much more weight than the views of someone they could read on the internet themselves.

If top photographers in your club or region are not available for an interview or to write an article, a win-win solution could be to publish a link to the online article (plus other articles on the topic):

- You win by staying within the confines of the law and actually promoting an article/author you admire;
- The author/website wins by gaining many visits that will boost their online xxx
- Your readers lose nothing by reading the article at source.
- And most importantly, you don’t have to go to jail.