

Everything you ever needed to know about copyright, but were afraid to ask

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Below are the key points of an address that was delivered at a recent copyright conference organised by the CREATE ministry, a part of the Fellowship for Evangelism in the Visual Arts (FEVA).

This paper is based on a paper originally drafted by Graham Stanton (Youthworks College)

Copyright Issues and Ministry

1. Copyright Law & Ministry

Most forms of artistic expression are automatically covered by copyright law in Australia. Copyright protection is automatic and lasts for 70 years from the end of the year in which the creator of the material died (eg for music), or 50 years from the date of first publication (eg for films), depending on the subject matter. You don't need to have a copyright notice on something to claim copyright (but it helps if you have it to prove ownership).

Owners of copyright have exclusive rights to copy, distribute and show or play material (films, DVD, Video) in public.

Unauthorised public screening or copying/distributing of copyright works will usually be an infringement of copyright. Legal action can be taken

against you for a period of up to six years after the infringement. Penalties can include fines of up to \$60,500 and/or 5 years in prison (for individuals), or fines of up to \$302,500 (for corporations) per offence.

Even though it is unlikely that legal action would be taken against a church given the non-profit nature of the organisation, a knowing infringement of copyright law is illegal and carries criminal penalties. It also violates the Christian imperatives to submit to governing authorities (Romans 13:1-7) and to not steal (Exodus 20:15, Romans 13:9). The Bible calls us to submit to all authorities – as God has put them there to make laws for our benefit. Our Government has seen fit to enact copyright laws so that artists and creators can get paid for their creative endeavours, and to encourage them to continue to create new works. As Christians, we should obey earthly laws (unless they conflict with God's law). Copyright laws do not conflict with God's laws. It doesn't matter if you don't agree with copyright laws, we should still obey them. It is similar to the situation if you don't agree with certain speed limits.

For more information about copyright, including some useful FREE Information Sheets, check out The Australian Copyright Council's web site.

This paper will now consider some of the main areas that copyright law impacts on ministry.

2. Playing a Whole Film at Church/Youth Group

Playing a video or DVD you own or have hired from a video store in public will infringe copyright, unless you get permission from the copyright owner (or more usually, from the relevant distributor).

2.1 What is "In Public"?

The general definition of 'in public' is outside a private home. The less officially organised an event is, the less likely it is to be deemed 'in public'. But note:

(a) Screening a film in a church or youth group is regarded to be a public performance. Permission must be sought from the copyright holders.

(b) Owning the video or DVD does not by itself entitle you to screen it publicly – the licence terms on an ordinary commercial video or DVD usually say it is for “private home use only”.

(c) Whether or not you charge a fee does not change whether it is a public performance or not.

(d) Screening a pirated copy of a DVD, or a film illegally downloaded from the Internet, is an infringement of copyright and carries both monetary and criminal penalties.

(e) Screening a film in a home bible study group as a group of friends would watch a video in a private home is unlikely to be a ‘public performance’ for copyright purposes.

2.2 Seeking Permission

You need to purchase, rent or borrow films from a supplier that can give you permission, on behalf of the copyright owners, to screen the DVD or video.

Roadshow Film Distributors handles most commercially produced films. Roadshow charges a fee for public performance based on expected audience numbers, the amount of advertising, whether it is screened indoors or outdoors and the particular film being screened.

A youth group of 30 people, advertised among group members only, screened indoors would be charged around \$70 to \$80 plus GST. A group of up to 100 people would be charged around \$160.

Roadshow covers permission for full length films not for extracts for illustrations in a sermon. Contact Roadshow (02 9552 8680, publicperformance@roadshow.com.au) and provide details of what film, date, size of your group, nature of advertising and venue of performance.

Roadshow will send you a copy of the film in the mail which you return after the performance. If you own a copy of the Video or DVD you

can pay the fee to Roadshow and play your own copy. You cannot show a Video or DVD hired from a local video store.

Other films may be handled by:

- (a) The Australian Centre for the Moving Image – 03 9929 7021, <http://www.acmi.net.au/borrow>;
- (b) Columbia Tri Star;
- (c) Warner Home Video; or
- (d) 16MM Australia Pty Ltd.

If you have the DVD or video, check the back cover – it will say who the relevant distributor is, to seek permission to show that DVD or video in public.

3. Playing Commercial Music at Church or Youth Group

In playing music at church, there are usually two copyright works involved:

- the copyright in the song (lyrics, composition etc.);
- the copyright in the recording and/or music video of the song (a particular recorded performance).

Permission is required from APRA (<http://www.apra.com.au>, 1800 882 772) to play a song in public.

The APRA Church Licence allows churches to play music in public at events other than church services (Note that APRA permission is not required for the playing of music within a church service including weddings, funerals or baptisms because APRA considers the use of music in these contexts exempt from public performance licensing requirements). Church activities such as youth groups or social events must be covered by the APRA Church Licence. At time of writing the annual fee for the APRA Church licence was \$64.39. For more details see the APRA website or contact the General Performance Licensing section at licence@apra.com.au

Permission is required from the Phonographic Performance Company of Australia Limited (PPCA) to play the sound recording of a song in public. However, PPCA provides a special exception for non-profit clubs and societies from seeking permission for the separate sound recording in the soundtrack to the film. So if the music is from a soundtrack of a film, no PPCA licence is required.

If the music that you want to play is Christian music, then you may want to check if your church has a licence from CCLI – Christian Copyright Licensing International. Most churches have a CCLI licence which would allow a youth group to play christian songs.

4. Using Extracts of Films/Newspapers/Pictures in Sermons or Talks

Infringing copyright occurs when a “substantial part” of the work is used. A substantial part is understood as an important, essential or distinctive part of the work. For example ‘the shower scene’ in Psycho is a substantial part of that film despite being a very small proportion of the total length of the film. Recently, the Australian courts have found an 8 second excerpt of the Rugby League Grand Final (of a footballer cartwheeling) was a substantial part of the Grand Final Broadcast! Therefore, even small excerpts of films or other works can be substantial – so if you don’t have permission to use the excerpt, you need to rely on an exception under the Copyright Act.

There are three relevant exceptions under the Copyright Act for the screening of extracts:

- Fair dealing for criticism or review;
- Fair dealing for research or study;
- Fair dealing for the reporting of news.

If you are critiquing or reviewing a movie or the ideas contained in it rather than using an extract for illustrative purposes you would be able to rely on the criticism or review exception. To come within the exception, you have to “use words of criticism” (ie laughing alone is not criticism), and the criticism has to be of a copyright work (not necessarily the work you are using).

You need to be careful in the way you use an extract.

To play an extract from a movie because it illustrates a point you are making in a sermon is an infringement of copyright (e.g. in a talk on the value of teamwork you need permission to screen an extract from X-Men where Wolverine decides to join the other X-Men to rescue Rogue).

To give a talk that is reviewing the ideas contained in a movie you do not need permission to play extracts from the film (e.g. in a talk reviewing the movie

X-Men, you would not need permission to show the scene where Wolverine decides to join the other X-Men to rescue Rogue in order to make the point that the film promotes teamwork over individualism)

A church or youth group is not automatically considered to be an educational institution, even if you call the building you are meeting in an ‘education centre’ – so do not think you can automatically rely on the exception for research and study. Even with this exception, only 10% of the work is allowed to be copied. The other exception – for criticism or review – does not have any limitation on the amount copied – it just has to be “fair”.

5. Internet – Website Issues

Some helpful hints:

(a) Be careful what you download from the Internet – copyright works are freely available on P2P networks – but this does not mean the copyright owners have given permission for their works to be there. Copyright owners have sued users worldwide for downloading films and music from P2P networks.

(b) Be careful using well known trade marks or logos in youth group websites. Large corporations actively search the Internet for use of their valuable trade marks by others – if you do, you might get a nasty letter of demand from a lawyer, asking you to stop using the mark or logo.

(c) If you are using content from someone else’s site, check the website terms of use. What you use may not be an infringement of copyright, but if it breaches the terms of use, the website owner can sue for breach of contract also.

(d) Be careful when hyperlinking your website to other websites. If the other website contains infringing material, you could also be liable for any users using your hyperlink to access that copyright infringing material.