# Copyrights and Licenses / Intellectual Property

Communications Workshop – August 10, 2021

**Introduction**

When we create communications, we often want to include photos, videos, music, maps or other artwork to add to the message and make it more visually appealing — which, of course, is a good thing! This applies to all kinds of communications — including livestreaming and more “static” forms of messaging like webpages, newsletters, social media postings, and other church communications.

Lots of times, people have a tendency to go online and grab something without much thought and just use it.

Unfortunately, this is not a prudent practice, and it can create problems for you.

This afternoon, I’d like to raise your awareness of why this is and give you some tips on how to keep your communications safe.

**3 Issues to Consider**

Before you use a photo or one of the other things I mentioned — which we can call “intellectual property” — there are 3 main things to think about:

1. Who owns it?
2. Who or what’s in it?
3. How do you plan to use it?

Let’s talk about these one by one.

**Who owns it?**

In general, the person or organization that takes a picture, creates a piece of art or music, or fashions some other kind of creative work owns it and holds all the rights to it unless they assign them away. So if you appropriate someone’s work without permission, you are potentially stepping on their legal rights. And if the owner finds out, they — or their lawyers — may come after you demanding that you stop using their work… asking for money for your improper usage… or even suing for damages on top! Just because you’re a “little guy” doesn’t mean that you’re immune. Some organizations are very aggressive about protecting their brand and other rights, and they don’t care who the violator is.

One of the main rights of ownership is the copyright. Under the law, having a copyright for a photo or a video is as simple as clicking the shutter of the camera. Even if you hire a photographer or videographer, say to take wedding pictures, that person is still the copyright owner unless they transfer the rights in writing to you. So the rights belong to the creation of the work, not to any prints or tapes or digital copies that you may have paid for and have in your possession! Unless you have a license — that is, permission to use the photo in certain ways — you can’t use it.

Why does this even matter? Well, in most cases it won’t. If you want to post professionally-taken photos of a wedding or a church event on Facebook, hardly any photographer would object. But imagine this crazy case: you have a dispute with the photographer and you’re angry. So you do something to the picture and post it with this caption: Look at the awful picture Joe Blow took at my daughter’s wedding. It’s good to remember that a lot of statutes and case law exist because people have done terrible things to one another.

But we’re most likely not talking about that kind of thing. Most likely, you want to publish something that relates to your ministry.

In general, if you took the picture or video, if you created the graphic, if you wrote and performed the music — you own it and can freely publish it — subject to the other 2 considerations we’ll talk about in a little bit.

If a friend or a parishioner produced it, a simple email asking for their permission to use it is sufficient.

As for pictures or videos or film clips or music taken off the internet, you probably now realize that someone out there in cyberspace owns them. So can you use them?

In most cases, no. Don’t republish content from mainstream media sources like newspapers, news services, TV stations, or other people’s webpages unless there’s a message that says “Feel free to republish this.”

If you really want to use something that you find online, then the best practice is to send an email to the person or organization that published it and request permission. It can say, “I found the attached photo on your website and I’d like to have your permission to republish it in our Sept. 1 church bulletin that goes out to 750 members in our local community.” They might say yes, they might say no, they might ask you to include a credit line, they might ask for a fee.

What about music? Churches are typically permitted to play and perform copyrighted songs during worship services, but this only covers live, in-person performances. You probably need another license to play, perform or otherwise use any copyrighted material in a recording or broadcast, including a livestream — and in non-worship settings, even like a church picnic.

By the way, churches always need to have permission to distribute lyrics and sheet music for copyrighted songs, including during worship services. Purchasing and using hymnals is one way to comply with copyright law. The cost of licensing the lyrics and sheet music is included in the cost of the hymnals. But very often purchasing hymnals does not give the church permission to copy lyrics to projector slides. You might need additional licensing for that kind of use. Check your hymnal.

The better approach is to hunt for online photos and other artwork more strategically.

1. You can start with a simple Google image search. E.g., black lives matter. Search images, then tools > usage rights > Creative Commons licenses. Then read the restrictions.
2. DO a Creative Commons search at search.creativecommons.org. Read the license requirements carefully. You may need to publish an attribution link.
3. Use photos or videos from the U.S. govt : search.usa.gov – or the Library of Congress : loc.gov/pictures - you can find great photos from NASA, FEMA, the military and many other govt agencies that you can use
4. There are various free stock photo sources like unsplash.com, pexels.com, pixabay.com. Some of these also have videos and music.
5. Also check out Wikimedia Commons – commons.wikimedia.org for millions of freely usable media files, including images, music and videos.

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If you use the “Glory to God” hymnal published by the PC(USA), I recommend you look at the Hymnal Rights & Permissions webpage on the PCUSAstore.com website for a detailed description of what you can and cannot do. I’m including the link in the notes:

<https://www.pcusastore.com/Pages/Hymnal/Hymnal-Rights-and-Permissions.aspx>

**Who or what’s in it?**

This next point covers not the ownership of the work itself, but the subject matter. We begin to get into rights of privacy, publicity, trademarks and property.

Some examples:

The person may not want their picture used — or their children’s picture. If you’re planning a big event and you want to take lots of pictures and use them, it might be a good idea to let everyone know ahead of time that you’re going to do this. If people have to register, you can make it part of the form that they’re giving permission for you to use any photos. And if someone opts out, respect that.

There could be multiple copyrights involved in a single image. E.g., photo of a gallery in an art museum — the photographer has ownership of their image; but the painters of the various artworks shown own their paintings!

As for trademarks, let’s imagine that a person in your photo has a tattoo that shows the Apple logo. Strictly speaking, Apple could object to their registered trademark being used in a way that they contend damages their brand.

We had a situation about 9 years ago with the cover photo we used for our annual Presbyterian Planning Calendar. We had a beautiful picture of a woman doing liturgical dance at an annual gathering of Presbyterian Women. PW supplied the photo to us with caption and credit information and gave us assurances that we had permission to use it. Well, as it turned out, the person in the photo was misidentified — and the woman was quite offended. Lawyers got involved. In the end, we wound up printing an errata sheet with the correction and had to manually insert it in about 100,000 copies.

Just keep it in mind.

**How do you plan to use it?**

Usage really falls into two broad categories: editorial use and commercial use.

Editorial use means that you’re reporting a newsworthy event or illustrating a matter of public interest. If our person with the Apple tattoo, or a child, or someone who doesn’t like to be photographed is included in a news story, that’s probably OK.

Commercial use, on the other hand, refers to using images to sell a product, raise money, or promote a company or organization and its goods or services. That would include a church using an image to promote its ministries, boost its membership, fundraise — basically all the things that you do in your communications. You may not see yourself as “commercial” in any sense, but the law says otherwise. You are not exempt!

You may wonder why this even matters. Well, a person may object to the context in which their photo is used. Imagine you take a nice group picture at a church picnic — and then use the photo to go along with a story that says how First Presbyterian Church staunchly supports a woman’s right to choose! Someone may strongly object to being associated with that. In the case of commercial use, a person has a right to control their own privacy and publicity. If the photo implies that someone is endorsing some cause or position, that could be a problem.

Another usage question comes up if you plan to alter the picture before using it — perhaps by cropping it, superimposing it on another background or editing it with a program like Photoshop to change elements. You can imagine the kind of havoc some creative edits can cause. So just be aware!