What is Social Media?

Social media is a term applied to websites and applications that enable users to create and share content or to participate in social networking. Examples include Facebook, LinkedIn, Twitter, YouTube, Pinterest, Instagram and Tumblr.

Social media allows users to access and share existing content and to upload their own content, but copyright exists in social media as with any other media or format.

What is copyright?

Copyright gives legal protection to original:
- literary, dramatic, musical and artistic works
- sound recordings
- films (and videos)
- broadcasts (including cable and satellite programmes)
- typographical arrangements of published works

Copyright arises automatically once the work is recorded in writing or some other form, and it gives the copyright holder exclusive right to:
- copy the work
- issue copies of the work to the public
- perform, show or play the work in public
- to communicate the work to the public (by broadcast, or by electronic transmission)
- make an adaptation of the work

It is an infringement to do any of the above to a whole work or a substantial part of a work without the permission of the copyright holder.

What are you allowed to do?

It is not an infringement to reuse
- a work which is out of copyright
  - most works fall out of copyright in the UK 70 years after the death of the author/creator, but there are exceptions.
- an insubstantial amount of a copyright protected work.
  - how much is considered insubstantial may be a question of quality as well as quantity. For example, 30 seconds of an hour-long programme could be judged substantial if an important element of the plot is revealed.
- works which are licensed for re-use
  - for example, Creative Commons licensing which permits re-use under certain conditions
- Open Access
  - where it is stated that the work is freely available for re-use (NB a work is not Open Access just because it is on the Internet)
Additionally, copyright law provides certain exemptions to the exclusive rights of copyright holders, where copying without seeking permission is allowed. Some of these exemptions may apply to social media, such as:

**Criticism, review, and quotation**
You do not need to seek the permission of the copyright owner to use a quotation provided that the original work has been made available to the public and the copy is accompanied by sufficient acknowledgment of the source.

**News reporting**
Copying any work except photographs for the purposes of reporting current events does not infringe copyright. The copy must be accompanied by sufficient acknowledgement, unless in the case of sound recordings, films and broadcasts it is not practical to do so.

**Caricature, parody or pastiche**
You can copy a moderate amount of somebody else’s work for this purpose without seeking permission, for example, copying extracts from films to create a parody video.

For each exemption, the amount of the original work which can be copied must be fair to the copyright holder. In legal terms, this is called “fair dealing”. Factors which are relevant in determining whether a particular use is “fair dealing” include:

- Does the use of the work substitute for buying a copy of the original?
- Is the amount of the work taken necessary, reasonable and appropriate?

Any use not covered by an exemption may require permission or a licence.

**What about my copyright?**

All social media platforms have terms of service or user agreements which you consent to by accessing the service or platform. These are a form of contract between both parties and should be read carefully.

Service agreements usually state that you must own the copyright in any content uploaded to the site. It is your responsibility not to infringe anyone else’s copyright.

Generally, you will own the copyright in any original work you create but by uploading your work to a social media platform you might be giving up some or all of your rights.

For example, if you post a photo on your Twitter account then another user does not have permission to copy or download your photo, but the Twitter terms of service do allow them to retweet the photo.

Terms of service may be as simple as allowing your content to be used in accordance with the service but could also involve granting the social media platform the same rights as if they were the copyright owners. This allows the platform to further copy and distribute the work, to sell it and to prevent you from selling it, and to reuse it for purposes other than those originally intended, all without your further agreement.

An article by Hayleigh Bosher, lecturer in Intellectual Property Law at Brunel University highlighting this issue can be found here: [https://theconversation.com/ten-things-you-should-know-about-instagrams-terms-of-use-102800](https://theconversation.com/ten-things-you-should-know-about-instagrams-terms-of-use-102800)

Any terms of service however cannot override the fair dealing exemptions in UK law, as outlined previously, which do not infringe copyright.
What are the risks?

The nature of social media means that content is regularly uploaded, reproduced and shared online, with social media companies and websites enabling and encouraging these activities. If you are not the copyright owner, and you don’t have permission, the decision to re-use or re-post content is down to your understanding and awareness of risk.

Just because other people are sharing something online, doesn’t mean you wouldn’t be responsible for copyright infringement. The excuse “everybody is doing it” may not hold up in court.

Social media platforms often rely on their service agreements and takedown policies to ensure that they are not liable for any copyright infringement. The platform will provide a means for copyright owners to report a breach of their copyright and a takedown policy will outline how offending material is removed on request.

You may risk suspension of your account if you continue to upload infringing material.

To avoid widespread infringement of music copyright on its platform, YouTube has licensing agreements in place which also cover some user generated content. If the music is licensed, or free to use, this information will be included in the content description.

Future legislation could force the platforms to take more responsibility, to ensure infringing content is not hosted on their sites by adding filters which will check for copyright protected material at the point of upload.

Social media checklist

- Do you own the copyright in the work you are sharing?
- Have you read the terms of service or user agreement of the social media platform?
- Are you covered by one of the fair dealing exceptions in UK copyright law?
- Is there a copyright disclaimer or licence information on the work?
- What are the risks in sharing the work?

Further sources of information

The Copyright Clearance Service

Based in Headingley Library, the Copyright Clearance Service can provide advice and copyright clearance.

Telephone: 0113 812 7472
Email: r.thornton@leedsbeckett.ac.uk