



Top 10

Misconceptions About Copyright in Medical Communications

Separating copyright fact from fiction

The reuse of published material in medical communications projects is common practice but understanding how this activity intersects with copyright law can be confusing and fraught with misunderstanding that can lead to greater risk of infringement to your organization. Here are some common misconceptions around content access and reuse and guidelines for educating yourself — and your clients — on the responsible use of published content.

1

If I secure a license to use a figure in a presentation, I should be able to use that figure again when presenting the same slide deck at another medical congress.

A license is typically specific to a particular use and does not apply to other types of uses of the content. A rightsholder's grant allowing you to use a figure in a specific presentation only applies to that presentation use, and not to other uses unless specified. If you want to use the content in another presentation or in any other way, you will typically need to obtain a separate license from the publisher.

2

My company has an online subscription to a journal, so it should be okay if I post articles from that journal on my company's intranet site for employee education or send copies to my clients.

Not necessarily. Distributing copyrighted content by posting it to an intranet site is no different than emailing a copy to each employee. Each typically requires permission. In some cases, distribution within the company may be permitted by the relevant journal subscription, but in many others, separate permission from the copyright holder or its authorized agent is required to make or share any additional copies.

It's quite rare that subscription agreements allow distribution to persons outside the organization, so check the subscription terms carefully before sending content outside your company. You will likely need to acquire additional permissions or purchase digital or hardcopy reprints to send those external copies.

Top 10 Misconceptions About Copyright in Medical Communications

3

A lot of articles I read online have article tools that allow me to share the piece on social media sites such as Facebook, Twitter, and LinkedIn. Since they seem to be encouraging people to share, it should be no problem to also use the content in a presentation.

Content available on public websites is still protected by copyright law. If a publisher enables you to share through a mechanism they provide (which retains their advertising, branding and the like), that does not mean you may copy or use the article internally or externally in any way you would like. In this case, these article-sharing tools are part of a publisher's business strategy. Their use expands exposure to the publisher's content more broadly and brings additional visitors to the publisher's site, while still maintaining control of how the publisher's works are accessed and shared. If you want to distribute copies in another manner, you typically need to obtain permission from the copyright holder. Be sure to consult with your editorial team or Legal department before sharing published content.

4

The original author of this content has already given me permission to use this content, so I should be able to share the content as I see fit.

If the content is published by a journal the copyright could be held by the journal publisher, not the author who transferred the rights to the publisher. In other words, the author's permission may not give you the rights you need.

5

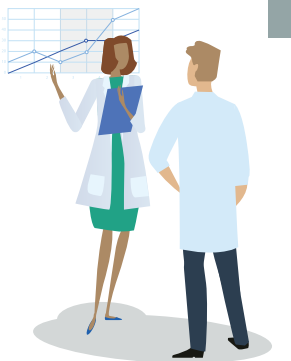
As long as I cite my source, I can use third-party content in my articles, reports and presentations.

Including attribution does not eliminate the need to obtain the copyright holder's permission for use of content beyond the traditional limits associated with fair use. In a business context, to lawfully use more than brief quotations from copyrighted materials, you typically must secure permission from the respective copyright holders.

6

We ordered paper reprints of an article, but I also want to e-mail the article to people. Because we paid for reprints, I don't see any reason why I can't scan the article and also distribute it electronically.

An order for paper reprints does not automatically include the rights to create or share electronic copies. Most copyright holders sell, or license content based on format and type of use. Before changing the format — for example, from paper to electronic — check your agreement with the publisher or vendor carefully. If the rights to send copies electronically are not expressly included, you should seek additional permission from the rightsholder.



Top 10 Misconceptions About Copyright in Medical Communications

7

I contacted the publisher to request permission to use their content, but no one ever got back to me. I assume this means they don't care and it's okay to use the material.

When requesting copyright permission, it is important to note that a lack of response from the copyright holder does not, under U.S. law, negate the need to obtain permission. In addition, some works may contain materials — text, images and graphics — from multiple copyright holders and may require different authorizations depending upon what element or set of elements you wish to use.

8

If a journal article is published as Open Access (OA), I am free to use and share with other employees as I wish.

For OA content, it's important to understand the type of OA license under which the content is made available. There are [six main types of OA Creative Commons licenses](#)¹ each granting a different set of permissions for reuse under a specific set of conditions (for example, the requirement to provide attribution). While some of those licenses authorize use for business purposes, several of them specify that re-use is allowed only for non-commercial purposes.

- Attribution CC BY
- Attribution-ShareAlike CC BY-SA
- Attribution-No Derivs CC BY-ND
- Attribution-Non-Commercial CC BY-NC
- Attribution-Non-Commercial-ShareAlike CC BY-NC-SA
- Attribution-Non-Commercial-No Derivs CC BY-NC-ND

In addition, some rightsholders use their own forms of OA licenses that have different terms from the Creative Commons licenses. When using OA content, it is important to make sure you are using the content in a way that is consistent with the relevant OA license and your company's own OA policies.

9

I am presenting a slide deck in a symposium to a few hundred people, and I have included published figures in my deck. Since I'm not providing printed copies or links to the presentation for attendees I don't need permission from the publisher.

You still need to obtain permissions from the publisher(s) for the reuse of that content in the presentation. You will need to inform the publisher whether the content will be distributed in any way (print or electronic) beyond the primary use in the presentation.



10

It's no big deal if I use or share content without permission. I won't get in trouble.

Need help educating staff, as well as clients, about their rights and responsibilities when reusing published material for commercial use? Copyright Clearance Center (CCC) can help. We provide a wide range of copyright education, from the basics of copyright law to certification programs. We also offer licensing and content solutions to help take the guesswork out of copyright and minimize risk.

Copyright protection exists to encourage the development of new and creative works that spur innovation. Using content in unauthorized ways may infringe on the legal rights of the copyright holder and could put you and your organization at risk.

In the U.S., if the copyright holder registered the work with the U.S. Copyright Office prior to the infringement, the copyright holder may sue for compensation (and an injunction). The copyright holder may be entitled to recover damages based on its lost profits; if those are hard to prove, the copyright holder can ask the court to award statutory damages which, depending on the user's willfulness, can range from \$200 to \$150,000 for each act of infringement. In some cases, it is even possible for there to be criminal liability.

In the U.S., the copyright holder may sue for money damages and an injunction prohibiting further use. The copyright holder may be entitled to statutory damages which, depending on the user's willfulness, can range from \$200 to \$150,000 for each act of infringement. In some cases, it is even possible for there to be criminal liability. Copyright infringement claims are not uncommon. For example, in 2018-19 alone, Dow Jones, the publisher of The Wall Street Journal, publicly announced settlements with three infringers of different sizes for \$3,400,000, \$825,000 and \$700,000.²

¹ Creative Commons About the Licenses (<https://creativecommons.org/licenses>).

² <https://www.dowjones.com/press-room/dow-jones-receives-more-than-1-5-million-in-recent-copyright-infringement-settlements/>



A pioneer in voluntary collective licensing, Copyright Clearance Center (CCC) helps organizations integrate, access, and share information through licensing, content, software, and professional services. With expertise in copyright and information management, CCC and its subsidiary RightsDirect collaborate with stakeholders to design and deliver innovative information solutions that power decision-making by helping people integrate and navigate data sources and content assets.

Learn more

To learn more about copyright education and solutions to manage compliance, contact CCC.

✉ solutions@copyright.com

🌐 copyright.com/education