

## Kickstart

Gets you started on key issues:

- What are the issues?
- Does it affect us?
- What do we do next?

*The regulations affecting the copyright of video material are long and quite confusing. As churches are using an increasing amount of multimedia in the meetings it is important to understand some of the guidelines by which we should operate.*

# Video Copyright

## Copyright History

If you use a video clip without permission, you are open to being sued by the film maker.

However, when copyright law was tightened up in the 1970s, various groups protested that they used copyrighted material in a socially beneficial way, and that it was daft for them to be vulnerable to legal action. In response, representatives of copyright holders agreed on a set of conditions defining fair use of copyrighted material.

Since then, it has been possible to defend a use of copyrighted material as fair if it meets these criteria, and so to avoid paying damages to the copyright holder. So, if you were sued by a film maker, you might be able to argue in court that it was a fair use. A judge or jury would then decide whether it was really a fair use, using the five criteria below. If they felt it was fair, you would be let off!

## The Criteria

The criteria are as follows:

1. The purpose of the use:
  - (a) are you making a profit or not?
  - (b) was it for a socially beneficial purpose (i.e. criticism of the material, comment on the material, news reporting, teaching or research)?
2. How much was the material altered? Was it simply lifted from the original, or was it changed sufficiently to be considered a new work in its own right?
3. Where does the work fall in the spectrum of worthiness of copyright protection? Some works are

simply more deserving of protection than others. A blockbuster film costing millions to produce is probably very deserving of protection! Graphics on a web page set up by an amateur would be much less deserving.

4. How much of the work was used, in relation to the amount needed for the purpose? You might need to show the whole film for some purposes (e.g. an outreach to students based on discussing a thought-provoking film), but showing 10 minutes of the same film could be seen as excessive use in other circumstances (e.g. to illustrate a point in your sermon, if a 5 minute clip would have illustrated the point equally well). In other words, it is not to do with only using a certain percentage of the film - but whether you used more than you needed to achieve your goal.

5. Did the use harm the potential market value of the film?

## Make a decision!

Some uses of video, such as entertaining kids during a church meeting, would be very hard to defend as a fair use, and would leave you wide open to legal action.

Other uses might be easier to defend. For example, using short video clips to support an evangelistic talk would fall on the right side of criteria 1(a), 1(b), 4 and 5. Editing the film, to draw out a message, would also help with criterion 2.

I would therefore encourage you to think about what you are doing with respect to the five criteria above. If you feel happy that it is a fair use,

you might want to go ahead - but remember that a judge and jury might not see it the same way! Since no church has yet been taken to court over showing videos, this remains a legal grey area.

## Making it clear

If you want to be crystal clear that you are on the right side of the law, there are two things that you might do, though neither is entirely satisfying!

1. Only show videos/DVDs that are marked as having Public Performance Rights. However, this applies to very few films.
2. Attain written permission from the copyright owner prior to the use of the video. However, this is not straightforward. Des Filby, who runs a library of video clips for church use (see [www.creativechurch.org.uk](http://www.creativechurch.org.uk)) has spoken repeatedly to film makers such as the BBC and Fox Studios, asking if he needs to pay them anything. They have replied that they are not interested, since they consider church use trivial.

## A video licence?

Finally CCL Ltd. (who administrate the Church Copyright Licence for music), are soon to introduce a Video Licence which will represent 29 film producers. This will help to solve the problem, but will not include the major studios to begin with, and will only allow showing of rented and purchased films (i.e. not home recordings). For more information, call CCL on 01323 436103.

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