

Copyright: A Guide For Speakers

So you're interested in delivering presentations for Mirthy? Or maybe you are already delivering presentations and somebody has mentioned the dreaded 'c-word': copyright? It's not as bad or as complicated as you might be thinking but you might need a clear head. So pour yourself a glass of something alcohol-free and read up here on all that you need to know about copyright and how it impacts you as a Mirthy Speaker.

What is Copyright?

Copyright is an 'intellectual property right' - which means that it is something that you can own but it's intangible. Not physical in any way; it's a creation of the mind.

The thing to which copyright attaches might be physical. A painting, for example, will have copyright existing (copyright lawyers say 'subsisting') in it for 70 years from the end of the year in which the artist dies. But that's different to the ownership of the painting itself. So, if I paint something and sell that painting to you, the physical painting is yours. But owning it doesn't mean you can make copies of it to sell at the local car boot sale or even print it on tea towels to raise funds for the Women's Institute. If I own the copyright, I control the right to do those things, which means that if the painting becomes well known, and if I feel like it, I can make copies of it or give permission to somebody else to do that, but you can't do these things unless you have my permission.

In fact, making copies is just one right covered by copyright. Copyright owners (or those who control their copyright for them) also have the right to control the publication of the work, its transmission to others, its adaptation into other formats, its sale or even its being made available for sale.

The permission bit is called a 'licence'. Pretty much everybody these days has accepted the terms of a software licence - that's just a form of copyright licence at its heart since copyright is the core intellectual property right for most software (it's sometimes patented too, but let's not get into that now).

Unlike many other forms of intellectual property, copyright isn't registered. At least not in Europe, or indeed in most countries. There is a form of copyright registration that you can do in the USA but it's voluntary. This means that instead, even in the USA, copyright comes into existence as soon as you create something that is capable of being the subject of a unique copyright. And it can be a number of different things:

- a literary work, such as an article or a novel;
- an artistic work, such as that painting of mine that I saw you selling copies of in the car park behind the Dog & Duck last Sunday;
- a sculptural work;
- a film;
- some music - as in the actual music itself, the notation;
- a radio or TV programme (basically something that's broadcast);
- 'typographical arrangements' - the way a newspaper article or a book appears on the page.

Some things have more than one type of copyright in them. A song has both musical copyright and literary copyright in the form of the lyrics. A slide deck might have a literary copyright and an artistic one too and it maybe even a typographical arrangement. And if that's not enough, there are various rights that aren't quite copyright but are very closely related: so-called moral rights, performance right, database right and unregistered design right are all effectively copyright's children. But other than performance right, none of them are really relevant to your presentation.

Generally, a UK copyright comes into existence when a British citizen or somebody resident here creates a work in which copyright subsists or if such a work is first published here. Neither might apply to your work but the chances are that there

is still copyright in it. If you're a foreign national and your presentation was first given elsewhere, the chances are that you will have copyright in your home country and, because pretty much everywhere in the world is a party to one or other of the international copyright treaties, your copyright will be enforceable here.

For copyright to subsist, the work has to be original. There has to be a small amount of effort put into its creation. But it doesn't have to be much and it doesn't have to meet any threshold of quality. So, a photocopy of somebody else's work won't attract a new copyright. But if you take an old film that's now actually out of copyright and you clean it up and re-release it, your new release would have copyright in it, although it wouldn't be infringed by anybody who makes copies of the original version.

There really isn't much that you need to do to create a copyright but it has to be something and there has to be some, well, substance to the end product. The courts have said that a made up name used by a company as a trade mark isn't capable of being the subject of copyright ("Exxon"). It's generally considered that catchy lines used to sell things (so-called 'straplines') aren't protected either, because they're just not substantial enough. Even though big corporates may invest millions in crafting a slogan like "Every little helps", it's just not enough for copyright. But Ernest Hemingway's novel in six words? That would definitely be the subject of copyright. It's not the quantity of the substance but its quality that we're talking about here:

For sale. Baby shoes. Never worn.

The chances are, you've already created a copyright work this week, in fact.

Copyright Ownership

Generally, copyright is first owned by the author - that's the person who created it, whether the writer, the artist, the composer or the musician. But if you are employed and you create your work in pursuit of your duties as an employee, although you remain the author, it is your employer who is the first owner. And that's why we need you to confirm in signing up with us that you are the author of your presentation and that it wasn't created by you as an employee of another person, be that person a company, a partnership or another individual. Because we need to know that you have the right to give us permission to use your copyright work in order to facilitate its delivery to our audience.

One last thing on ownership that's relevant to your slide deck and your video presentation. In Europe, it's not required to use a 'copyright notice'. Your work, if it qualifies for protection, is protected as soon as you create it (even though it may not yet be finished). But putting a copyright notice on your presentation somewhere can be useful because, well, it puts people on notice that the presentation is yours. You might put the notice at the start or at the end or, if you feel it's really important, in the footer of every slide. A copyright notice generally looks a bit like this:

(c) Belinda Bloggs 2020

The year being the year in which it was created or first published.

Using Existing Copyright Works in Your Presentation

It's very rare for the slide decks or video presentations of even the most famous and successful presenters to be ENTIRELY original to them. Almost certainly, you'll want to include things that other people have created previously. Sometimes, those things might not be the subject of copyright (a business name perhaps, or a copyright work in which the copyright has since expired). But even if the thing you're wanting to use is protected by an existing copyright, you can usually still use it:

Licences

You could get a licence to use the work - an image from an image library, perhaps, in which case you should be able to get yourself a copy of the licence when you subscribe. Take our tip, though. Don't assume that just because you found a glossy image on Google's Image search that it's free and available for you to use. It's almost certainly not and worse still, there are lots of 'copyright trolls' who allow their images to be picked up by Google and who will then threaten to sue you for thousands should you make use of one of them. You can buy the right to use images from a library ([Shutterstock](#) is generally pretty affordable) or you could look for royalty-free images, either via a library of public domain images or perhaps by using Google's advanced search criteria to filter your search results by usage rights.

Although there are many companies that make their money out of licensing images (Shutterstock, Getty, etc.), there are also many that use the 'Creative Commons' licence to make images (and other things) available for use for free. As in free, no money. They can still be the subject of restrictions though. For example, a Creative Commons licence might require you to cite the owner (and her URL) or may prevent you from using the image for commercial purposes.

Whichever route you use, if you are licensing images or other copyright content, make sure you keep a record of licences so you can prove later, should you need to, that you have the right sort of permission in place. And it would be good practice to include a slide at the end crediting all the copyright holders of the images and other works you've used. Or you could do that in small print on each slide if you prefer.

Fair Dealing

If what you're wanting to do is use an excerpt from somebody else's work as an illustration of a point you're making, the good news is that you don't need a licence for that. There are actually a number of these fair dealing "exceptions" - they're not defences or licences, it's more like copyright law doesn't apply to control your use if you are using a work in compliance with these exceptions - but the one that's most likely to apply to you is "fair dealing for criticism, review or quotation".

This means that you can use a reasonable amount of somebody else's copyright work in order to make a point. But you have to do this fairly - for example, your use of that work shouldn't affect the copyright owner's ability to leverage it commercially.

Let's look at an example. Let's say you were wanting to do a presentation about baking. Maybe you want to do a bit about meringue and want to highlight the different methods that can be used to make meringue. It might be that Mary Berry has written about one of those methods in one of her books, comparing and contrasting the techniques and perhaps praising one or other in a certain context. You could include a quote from Mary on a slide and use it to highlight the point you're making. As long as you properly attribute the quote to her on that slide (and at the end of the presentation or in a handout, you properly credit the work it comes from along with the copyright holder), that's fine.

What you couldn't do, though, is just copy out Mary Berry's Italian meringue recipe and include that on your slide. That wouldn't be fair dealing because if all I needed was to know how to bake Italian meringue using Mary's method, I would no longer need to buy her book. And that would not be fair on Mary.

There is no legal definition of what constitutes fair dealing but the legislation does cite the following conditions:

- the work, performance or recordings is already available to the public,
- the use of the fair quotation is fair dealing,
- the extent of the quotation is no more than is required by the specific purpose for which it is used, and
- in terms of literary, artistic or musical works (rather than performances and recordings), the quotation is accompanied wherever practicable by "sufficient acknowledgment".

Just one more thing on fair dealing for quotation: it doesn't apply to photographs. So, if you are doing a piece on photography, you probably won't be able to rely on this.

There's also a fair dealing exception for "parody, caricature and pastiche". Again, it's a fair dealing thing so you have to act in good faith and not commercially devalue the original work. But you are allowed to create your own version of it or to use the original with your own amendments. You know all those GIFs, parody videos and photoshopped images that fill social media? They're all possible because of this exception. Unlike quotations, you don't have to include an acknowledgment by law, but it's good practice to do so.

How This Impacts Your Agreement With Us

The terms that you agree to when signing up with Mirthy to be a Speaker include a number of provisions about copyright. In essence, these are:

- *You grant us the right to use your presentation to deliver our services to our users and to market your presentations and our services in general to clients and users.* Because you created and recorded your presentation, it's your copyright and we need a licence from you to use it.
- *You promise that the presentation you are giving is your work or that you are entitled for whatever reason to licence it to us so that we can then deliver it to our users.* Basically, we're trying to make sure we have the right to use the presentation that you provide. But note: if you created as an employee of another organisation, you can't grant us the licence mentioned above unless you have your employer's permission, so that would mean that you would be breaking this promise.
- *You promise that our use of that presentation won't infringe the rights of anybody else.* This is partly a repeat of the previous one but also, your presentation will probably contain other people's works (as discussed) so when we distribute your presentation, we need to know that we are not going to be on the wrong end of allegations made by other people that your presentation infringes their copyright.
- *You promise to indemnify us in the event that any of the promises you make (these are called 'warranties') prove to be untrue and we suffer harm as a result.* 'Indemnify' basically means that you will compensate us pound for pound for the losses we incur.

So There You Have It...

Hopefully this note has answered whatever queries you might have. Please be aware that this note does not constitute legal advice - we're not lawyers and if you have specific questions about your context, you should find somebody who is and ask them (and do yourself a favour by finding a lawyer who actually specialises in this stuff). It would be stretching it a bit, even to claim that we are scratching the surface of copyright.

Copyright is a massive topic and can be fantastically complicated when you get into the nitty gritty. Copyright lawyers all use a massive two volume text book that costs over £800 to buy. That's a lot of law. But if you take heed of some basic rules and essentially act like a decent person in respecting other people's efforts or investment, you should be OK.

Further Reading

If you need more help, you might try some of these resources:

<https://www.gov.uk/guidance/exceptions-to-copyright#criticism-review-and-reporting-current-events> - guidance straight from the horse's mouth

<https://www.bl.uk/business-and-ip-centre/articles/what-is-copyright> - considerably more detailed help from the British Library's IP advice service.

<http://www.legislation.gov.uk/ukpga/1988/48/contents> - the key statute in UK law concerning copyright

<http://www.legislation.gov.uk/ukdsi/2014/978011116029> - the regulations that implement the fair use exceptions.

<http://www.legislation.gov.uk/uksi/2013/1782/contents/made> and <http://www.legislation.gov.uk/uksi/2006/18/made> - legislation concerning performances.

<https://www.gov.uk/government/publications/performers-rights/performers-rights> - UK government guidance on performance rights.