

# Internet or WWW

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A common misconception is that everything on the 'World Wide Web' (WWW) is free to use because it is freely accessible. Internet web sites contain various creative materials e.g. literary, artistic, film, photographs, music or may even qualify as a database and as such are protected by copyright law.

Copyright law applies to electronic copying as it does to print, and was brought into UK Law with the implementation of the EU Copyright Directive on 31st October 2003 as ['The Copyright and Related Rights Regulations 2003'](#)

As the Internet /WWW is global, international copyright protection may apply but any legal action for infringement usually falls under the jurisdiction of the country where the infringement took place unless that country has inadequate or no copyright protection laws. There are some countries that offer little or no copyright protection to any foreign works.

There is no such thing as an “international copyright” that will automatically protect a work throughout the world. However, most countries offer protection to foreign works under certain conditions that have been simplified by international copyright treaties and conventions. The two principal international copyright conventions are: the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention) and the Universal Copyright Convention (UCC). The World Intellectual Property Organization (WIPO) has since consolidated all existing conventions and protections, and continues to further expanded protection in line with developments in technology.

It is important to note that websites may not necessarily own the copyright in the content they are hosting. Simply accessing or viewing the infringing content is not an illegal act in the UK, but may be in other jurisdictions. Any further copying, re-use or dissemination could be regarded as secondary infringement.

## Social Networking

Many users of social networking or content sharing sites such as Facebook, YouTube, Flickr, Instagram, Pinterest, or Scribd, don't understand, are unaware of or simply ignore copyright restrictions. Copyright protected material is often uploaded or shared without the permission or knowledge from the copyright owner which results in copyright infringement. Any copying and re-use of this content would also be considered copyright infringement, as would providing a link to the infringing content as a 'secondary infringement'.

Although licences may be attached to the content permitting re-use, e.g. [Creative Commons Licensing](#), the person providing the content and attaching the licence may not have had the authority to do so. Again, CC licensing is not fully understood by the general public and can mistakenly be attached to pirated content.

A recent case found that an innocent user, who had relied on an attached CC licence when reusing content, was held to be infringing copyright because they ought to have been aware that the content was itself infringing copyright.

There may also be [data protection or defamation](#) issues to be considered if using or linking to content hosted on these sites, which further reinforces the need for extreme caution.

## Copyright Infringing/Pirated Content

When searching sites, only use content that has been uploaded by the rights owner e.g. production company, artist, creator, photographer, author, publisher etc. (not an enthusiast/fan).

Re-use of web content may be permitted in the terms of use or under a '[Creative Commons](#)' licence, but only if the content and licence have been provided by the rights owner or an authorised source.

**How can you tell it's pirated?** The key areas to check are:

### Source/Host Website:



You can trust content on websites owned by an authorised content provider, e.g. National or recognised library, museum or archive, Institutional Repositories, a publisher's, Producer's or Rights owner's website. Even where they do not own the content, they will be licensed by the copyright owner to make it freely accessible online.



You should be wary of copying from or linking to Social Networking or sharing sites which host large amounts of pirated content but also legitimately shared content e.g. Wikipedia, YouTube, Limewire, Flickr, Pinterest, Scribd, GoogleImages, Googlebooks etc.



Avoid private individual, educational or business sites & forums e.g. students or private educational institutions (particularly where based overseas) often set up

topic based websites containing digital copies of reading materials including entire books, journal articles, research papers images or diagrams without obtaining the required permissions or licences and often invite users to share without any authority to do so.

**X** Never use websites specifically set up to facilitate online piracy

**Email Addresses:** If the email name is an individual person other than the creator/author/photographer, or a nickname e.g. "richkid123" and the Email service provider is not the authorised/owning organisation i.e. @yahoo or @gmail as opposed to @bbc.com or @roh.org

**Comments:** e.g. USER: Thank you for uploading this, it's really useful  
UPLOADER: That's OK, I tried a few times but it kept getting blocked for because of copyright stuff" These are actual comments on Youtube.

Once you have established the site/content is legitimate, you may rely on the legal exceptions in law, terms of use or licensing attached to the content.

## Legal Exceptions in UK Copyright Law (Fair Dealing)

The '**fair dealing**' exceptions are available for copying from copyright works for specific purposes, provided the copying is considered fair i.e. does not damage the rights owner's legitimate economic interests. Fair dealing purposes include private study, research, examination/assessment, quotation and criticism or review.

### What is 'Fair Dealing'?

Fair Dealing is not defined in law but left open to the discretion of the courts in a possible copyright infringement claim. The courts decide on a matter of fact, degree and impression in each case i.e. what you are doing, how much are you copying and what impact your copying has on the work and its market value.

The key question asked is: how would a fair-minded and honest person have dealt with the work?

Before copying under the 'fair dealing' exceptions, you should always consider:

- a) Would your use substitute for possible sales and cause the rights owner loss of revenue?
- b) Is the amount you are using reasonable, appropriate and absolutely necessary for your purpose?
- c) Does the copying meet the provisos of the exception/s you are relying on?

Copying a whole work or a large proportion as opposed to buying a copy would be difficult to defend as fair i.e. would be considered damaging to the rights owner's legitimate economic interests and unfair.

The **Exceptions** apply to specific purposes or groups of people i.e.

[General exceptions which apply to anyone](#)

[Education](#)

[Disabled Persons](#)

[Libraries](#)

***NB. Exceptions are defences that may be used in a possible legal action and not absolute rights and must not be confused with the US term 'Fair Use' for Education.***

## Copying or Reusing/Uploading Web Content

The term 'Digital Copying' is used to define any copying in electronic format e.g. scanning from printed material to keep electronically, copying material from other websites, burning onto CD or just sending a fax.

Most websites carry a **Copyright** statement or **Terms and Conditions** of use, indicating which uses are acceptable or require permission. Permission may be attached in the form of a '[Creative Commons Licence](#)' which allows a copyright owner to permit certain uses of a work by attaching certain licensing symbols, without completely waiving his/her rights.

If no statement or licence is available, do not assume that copyright is not attached.

## Uploading

*It is copyright infringement to post any copyright protected material onto a website, regardless of the source, without the permission of the copyright owner or under licence.*

This also applies to student work as a student retains copyright ownership in all his/her work, unless a signed contract exists to the contrary (see [Student IP Policy](#)).

All copied material must be attributed to the creator/author and publisher, the source, and if copied with permission or under a University held licence, details must be attached to this effect e.g. name of organisation or licensing body, date permission granted and duration (usually duration of the course/module e.g. one semester or one year).

## Linking

**Links must always open as a new page, as opposed to a frame within your web page.** Simply linking from one website to another does not infringe copyright, providing the material is not then

displayed in such a manner that would suggest the material is your own creation, otherwise known as 'passing off'.

**Always check the 'Terms of Use' or 'Copyright' policy of the website** before linking direct to an item within a website known as 'Deep Linking'. Many websites host advertisements for which the organisations receive revenue calculated by 'hits'. In these cases, the web site owners prefer all links to be made to the 'home page' or the page displaying these adverts rather than directly to the page of your choice. Increasingly, organisations are including permissions or restrictions for linking in their website 'Terms of Use' or 'Copyright policies'.

Where deep linking has been forbidden and permission is not sought, the web site owner could request a fee, or that the link be removed. This is commonly referred to as a 'take down' request.

### **Copyright Infringing/Pirated Content**

Caution should also be exercised not to provide direct links to copyright infringing or pirated content. Many users of social networking or content sharing sites such as YouTube, Flickr, Pinterest, don't understand, are unaware of, or simply ignore copyright restrictions. Providing a link to the infringing content would be regarded as 'secondary infringement'.

When searching sites, only link to content that has been uploaded by the rights owner e.g. production company, artist, creator, photographer, author, publisher etc. (not an enthusiast/fan). Re-use of web content may be permitted in the terms of use or under a '[Creative Commons](#)' licence, but only if the content and licence have been provided by the rights owner or an authorised source.

There are also many [resources freely available online](#) for educational use.

**Linking to E-Resources** is the preferred method of making items available to students. E-resources are governed by individual licences which vary in permitted uses. Downloading Full Text e-journal articles directly onto an Intranet adversely affects the usage statistics of the resource and is mostly prohibited by the licensors.

Where direct linking is permitted, specific procedures or adjustments may be required to ensure seamless off-campus access to content. Your Liaison Librarian will be able to advise further.

**Logos or Trademarks should never be used without permission** even as a linking tool. Apart from infringing copyright and this can mislead a user into thinking that there is an affiliation with the organisation.

## **File Sharing**

Never share your files with others unless you own all the copyright in the contents. If you have permission or are using material under a licence, re-publishing or communication to the public must be included in order for you to file share.

Even providing links to pirated or infringing material could lead to a legal action against you.

## **Clouds/Wikis**

Providing course materials via Cloud services such as 'Dropbox' or Wiki spaces, is not recommended as they do not meet the necessary security requirements. The University Licences prohibit making materials publicly accessible or via internet sites unless "the technical means of access is by a process of secure authentication that excludes anyone other than an Authorised Person".

For further information or advice, email [k.vasili@mdx.ac.uk](mailto:k.vasili@mdx.ac.uk)

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