

Copyright Guide for Congregations

A Guide to Copyright Issues
Facing Congregations Today

2014 Edition

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About This Guide

The purpose of this guide is to provide non-technical information about some of the copyright issues facing congregations today. It was prepared for the United Church by copyright consultant Don Anderson. It is not a legal document, and congregations requiring legal advice should consult with qualified counsel.

In this guide, the term "author" refers to anyone who creates a work of art, whether a poem, a photograph, a painting, a song, etc. "Publisher" refers to a person who makes the work of art available to the public.

Why Is Copyright an Issue?

In our weekly worship we praise, pray, teach, and preach using poetry, stories, plays, music, paintings, photographs, film, banners, sculpture, and architecture. Whether the art is created within or outside of the worshiping community, we should acknowledge its authors, and its authors should have some say in its use. Canadian laws reflect these principles and provide a framework for protecting the rights of those who create artistic works.

In publishing a work, the author establishes the terms for public availability (e.g., without charge, for sale or rent, the fees, how many copies are available, what kind of uses are permitted, etc.). The public does not have a right to distribute what belongs to someone else on terms other than those set by that person.

Christian communities recognize copyright as the law of the land but often lack adequate resources to trace copyright owners, obtain permission, and make the requested acknowledgement between the time when they plan worship and when the service takes place. Solutions to this issue include purchasing sets of worship resources such as hymn books, and subscribing to a licensing scheme (see "[Annual Licences](#)"). Even then, when a new congregational resource is developed (e.g., a choral or instrumental CD, a congregational outreach video, a Web presence), questions arise about how to satisfy moral and legal obligations.

Does Copyright Law Apply to Churches?

Yes. Some particular needs of churches and other organizations such as schools and libraries are recognized explicitly in law, but in general the same rules apply to churches as to anyone else. Churches need to get permission, as do others, to photocopy, reproduce in bulletins, make transparencies, project from a computer onto a screen, or show a video clip.

What Is Not "In Copyright" and What Is "In the Public Domain"?

Copyright subsists in a work during the lifetime of the author, through the end of the calendar year in which the author dies and for a period of 50 years following that year. If there are multiple authors, the same terms of copyright apply to the last surviving author. In cases where authorship is unknown or where it belongs to a corporate body, the rules are slightly different.

Copyright may not apply for a number of reasons: the place of citizenship of the author or the country of origin of the work may not be signatory to a treaty to which Canada is also a signatory; the term of copyright may have expired; or the owner of the copyright may have assigned the copyright to the public. In these cases, the work is said to be "in the public domain." Extreme caution in the reproduction of public domain material is required because editors, composers, and others, when publishing such material, sometimes introduce their own alterations that are in copyright. For example, part of a text or harmonization may be in copyright while the melody and most of the words are not.

Hymns, Music, and Printed Worship Resources

Congregations cannot legally photocopy, reproduce in bulletins, or use on overheads or a projection system material that is in copyright unless they get permission. In most cases, buying a book does not give the purchaser the right to make reprints in whole or in part. For example, most hymnals have explicit statements on the copyright page about conditions under which certain of the contents may be reproduced.

We own a set of hymnals for the congregation. Can we make copies of a hymn for the church picnic?

No, not without permission. There may be any number of reasons why the medium in which a copyright work is published is inadequate to particular circumstances. If you need to transfer a hymn from a hymnal to another medium frequently, you should explore a licensing scheme (see "[Annual Licences](#)").

Films/Videos

No one but the copyright holder has the right to show all or part of a work in public. This applies to showing films in any context other than in a home among family and friends. For instance, you need a public performance licence to show a film to a study group at the church. Public performance licences must be obtained, whether or not an admission is charged, for screening in virtually any place outside the home.

Some films are sold to distributors for resale with public performance rights included. Where such rights are included in the purchase, you would have purchased the right to screen the film in public according to the terms of a licence issued by the rights owner. Most videos sold by educational vendors have public performance rights. Most videos sold or rented by non-educational vendors (i.e. your local video store) do not have public performance rights included in the original price.

The Canadian Motion Picture Distributors Association directs you to obtain public performance licences, where required and where they are available through a third party, from [Audio Ciné Films Inc](#), the exclusive licensing representative for Canada for many mainline studios or from [Criterion Pictures](#), which represents other studios. Useful information on available videos and their owners and distributors also is provided by [Canadian Video Services, Inc.](#). You could also contact a studio directly if the rights for the film you wanted to show were not available through these third parties.

[Christian Copyright Licensing International](#) has negotiated a blanket licence through The Motion Picture Licensing Corporation that can be obtained relatively inexpensively to cover the public performance of films by certain studios in a licensed church. You must examine the list of film studios represented by this agreement carefully to understand whether the films covered by the licence would be useful in your preaching, teaching or recreational programs.

What about performing a piece of copyright music in an audio-visual production my church is making?

Synchronization rights are granted by the copyright owner of a piece of music, permitting its inclusion in an audio-visual production. If you have made your own recording (i.e. you performed the work yourself, or contracted with the performers to record a performance) with the permission of the copyright owner and have obtained from the owner permission to include your recording in a film, TV, or audio-video production, no further permission is required. If you wish to use someone else's recording of the music, you need their

permission as well as the permission of the copyright owner of the music. In this case, you would need to obtain a master use licence, usually from the publisher of the recording, as well as synchronization rights from the owners of the music. Like mechanical rights, synchronization rights are commonly administered by collectives such as [CMRRA](#).

Making a Recording

The right to make and reproduce a recording of music for sale or for free limited distribution is referred to as mechanical rights. There are legislated voluntary fees for copying a recorded performance, and collectives to administer these permissions. If you are making a recording, you may contact the copyright owners directly or through a collective agency such as CMRRA, if the collective represents the items you are reproducing. Check the Web site of the owners of the music, whether a performing artist or a publishing house, to find out whether you can deal directly with them.

HINT: It may be less expensive to deal with the collective agency than directly with the copyright owner, especially if the transaction with the owner involves currency exchange.

If you record your service for shut-ins, either audio or audio-video, you are required to have the permission of the performers, who have the right to control the use of their performances. Where the performers are employees of the church, the contract with them should be clear about the expectation that they will be recorded and to what use the recording will be put. You also need permission from the copyright owners of the items performed, as described under "What about performing a piece of copyright music..." above. Permission can be obtained for this sort of recording directly from the copyright holders — which is often impractical, given the range and variety of material that is used in a typical service — or through a licence from Christian Copyright Licensing International (see "[Annual Licences](#)"). Congregations remain responsible for ensuring that every item on the tape or video for the shut-ins has clearance for this use.

Dramatic Works

Dramatic works that are in copyright are protected by public performance rights. You will need to obtain permission from a clearing house such as [Samuel French, Inc.](#) to perform the work. The clearing house will need to know details about your intended performance such as your organization and address, place of performance, size of hall, ticket prices if applicable, number of performances and dates, whether you are a non-profit organization, and whether an actors' union is involved.

Artistic Works in Other Media

May we include photographs or videos of other artistic works in a presentation?

Yes, in limited cases. You may make a painting, drawing, photograph, engraving, or video of 1) a piece of architecture, or 2) a sculpture or piece of artistic craftsmanship (finely designed products that are typically mass produced, such as chairs) as long as your work is not an architectural drawing of the piece of architecture and the objects reproduced are situated permanently in a public place or building (e.g., a museum or gallery). To make a copy of any sort of another artistic work that is in copyright, such as a photograph or painting, requires permission of the copyright owner.

Are photographs themselves protected by copyright?

Yes. If you make a photographic negative or positive, you own the copyright to that photograph. For individually owned photographs, the term of copyright protection is

identical to that for music or words—lifetime of the photographer plus the balance of year in which the photographer dies and 50 years beyond that. Where the photograph is owned by a corporation, the copyright is limited to the period from the date of the making of the photograph through the end of that calendar year plus 50 years more.

May I use someone else's photograph of an 18th-century painting without permission?

No. Contact the photographer or the owner of the rights to the photograph. You do not need to contact the owner of the painting. It is not a violation of copyright law to photograph, sketch, or copy an object that is itself out of copyright.

Images from the Internet

Treat the Internet as if it were a very large book that has not been carefully edited. The owners of a Web site might not have done their homework, and you could be liable for civil damages if you reprint copyrighted material without permission of the owner of the material. Avoid using any Internet content that does not have clear assertions about where it came from, the names of the authors, and their affiliation. Avoid posting (republishing) audio or video clips that you have not carefully verified for copyright status and cleared with the owner.

Podcasts and Live Video Streaming

A podcast is an Internet download of audio or video material, whether live streamed or archived. If you're broadcasting your worship service live through your website, or saving it to your website for later viewing, you are podcasting. Podcasts require the permission of copyright holders for copyrighted material, including music not in the public domain.

Existing blanket licences for music only cover its use within the congregational walls, so you will need an additional annual licence for pod or web streaming. If you use LicencSing, you can obtain a licence through its [sister website](#). If you have a CCLI licence, you'll need its additional [streaming licence](#). [Onelicense.net](#) is another licensing agency that offers an annual podcast licence.

It's a good idea to get a blanket release from parents whose children may be filmed during the service. A one-time agreement is usually fine.

YouTube

If you link directly to a YouTube clip and show it in worship or meeting via an Internet connection, that's fine. You can also use the Hibernate/Sleep function on your computer if you don't have an Internet connection in the church. This holds the video in the computer's temporary memory so you don't need a connection, but if you change to another program, you lose it.

YouTube doesn't allow downloads, however. There are services like www.savevid.com that allow you to download and save a video. They operate in the grey area of "personal recording," which is allowable, but downloading a video clip and showing it in a public forum, like a church service, without permission is a violation of copyright.

Some Exemptions from the Normal Rules

Must we pay performance fees or royalties for music performed in church?

Sometimes, depending on the purpose. Churches may freely for the purposes of "furtherance of religion" perform in public musical works, recordings of musical works, or radio/TV broadcasts of live or recorded performances of musical works. This exemption covers worship services. Note: This exemption relates to performing musical works, not copying them.

However, if you have a fundraising concert or if you rent your hall for a wedding reception where music is played, this exemption does not apply. (Note: Music played at the wedding ceremony is an exempt church activity.) Music played for an exercise class is probably subject to a fee; music played for a church spiritual development program (meditation, etc.) is not. Generally, music played by renters is subject to a fee, if the purpose is not religious.

May we make a Braille or large-print version of a hymn or prayer, a tape of the worship service for the blind, or a sign-language adaptation of a play for the deaf without obtaining permission?

Yes to all of these, if there are no commercially available equivalents that meet the needs of the persons with perceptual disabilities. You may not make a large-print book, nor may you make your own adaptation of a cinematographic work under this exemption. Use of this exemption coincidentally to serve the non-impaired would be an abuse of this exemption.

See also the next section on [Creative Commons Licences](#).

Creative Commons Licences for Some United Church Resources

The United Church of Canada has adopted Creative Commons licensing for this website and, where possible, for its free print and audiovisual resources. The licences make it easier for our constituency to use these materials, within certain restrictions. They are also one way the United Church can contribute to building a culture of sharing.



The specific Creative Commons licence being used is [Creative Commons Attribution Noncommercial No Derivatives \(by-nc-nd\) Licence](#). This licence allows others to copy the work and share it with others as long as they credit us, under the following conditions:



Attribution: You must attribute the work to The United Church of Canada/L'Église Unie du Canada (but not in any way that suggests that it endorses you or your use of the work).



Noncommercial: You may not use this work for commercial purposes.



No Derivative Works: You may not alter, transform, or build upon this work.

Web, print, and AV resources licensed under Creative Commons must carry a notice indicating this.

For more information on Creative Commons, visit the [website](#).

Annual Licences

An alternative to seeking permission from individual copyright holders every time you need to use copyrighted music is to obtain an annual licence from a licensing agency. If you find you frequently need to use copyrighted music or worship material, you may want to consider going this route. For an annual fee, usually based on the size of congregation, a congregation can use a wide range of copyrighted material. The congregation periodically reports the items it uses to the licensing agency. There is no universal licensing scheme that would cover all of the items you want to use, however, so you will need to understand the scope of any licence you purchase and the range of needs of your congregation before signing a contract.

Before buying a licence, you need to understand the specific limitations as to material covered by it, permitted uses, and record-keeping required. [LisenSing](#) (follow the links under "Church Music"), an international collective representing a broad range of mainstream Christian worship music, and [Christian Copyright Licensing International](#) (CCLI), focusing on more popular music, are widely used in Canada by congregations that frequently wish to use copyrighted material. The coverage offered by CCLI, while extensive and mainstream, does not include the hymns owned by some major publishers, and United Church of Canada congregations will find a significant number of items from Voices United are not covered. [OneLicense.net](#) includes many significant publishers of hymn texts, hymn tunes, and songs for worship and offers podcast rights.

What does it cost?

As a rough guide, the cost of two to three individual permission fees (ranging from no charge to \$25 U.S., with an average of \$25 U.S.) would be equivalent to the licensing fee for a small congregation. Whether you buy a licence or handle permissions yourself, there is administration involved. Buying a licence involves reporting the music used; individual copyright permissions involve paperwork, but more than for a licence.

Another option is to plan for several specific items to be used over the course of a year and to obtain permission for these on a case-by-case basis, rather than purchasing "blanket" coverage. For an item you want to use frequently (for example, an offertory hymn), offer the publisher a flat fee to include it in a congregational collection or to use it every Sunday on an overhead.

How you handle copyright will be determined in part by your congregation's worship style: Frequent use of video clips may require an annual video public performance licence or access to a library of public performance rights included (PPRI) videos such as those from AVEL; contemporary worship may require frequent use of new, popular songs, which might indicate a CCLI licence, etc. Do not be afraid to ask publishers or collectives the best way to support your program. They will try to accommodate your needs.

When Copyright Is Violated

When an author's copyright is infringed, the author is entitled to civil remedies, including such remedies as compensatory, exemplary, or punitive damages (money) from the infringer. Criminal penalties may apply if the infringer sells or rents the illegal copies, or distributes illegal copies to such an extent that the owner of the copyright is affected prejudicially.

Finding Copyright Holders

The main problem congregations face in obtaining permission to use any copyright work is finding the owners. Since ownership of works can be shared, the use (copying, recording, synchronizing, etc.) of a work can involve contacting several individuals or publishers. Both can be difficult to locate, or even to identify. Resources that can help in the search are, in logical order:

1. The last known publisher. Publishers are generally good record keepers and, when approached with courtesy and sufficient time, will make every effort to help you contact the right parties. Publishers often know other publishers, so don't hesitate to ask the wrong publisher when you are unsure of the right one. If you have difficulty finding the publisher, do an Internet search of the publisher's name or contact your local library, where expert searchers will usually be able to provide you with a phone or fax number. Be prepared to supply all details, including the authors and editors. Sometimes a publisher will be known by association with certain writers, graphic artists, or musicians.
2. Publishers' associations such as the [Music Publishers' Association of the United States](#) are useful resources. The Canadian equivalent is the [Society of Composers, Authors and Music Publishers](#) (SOCAN). As of 2002, artists in other media were less well served by collectives, although efforts were under way to accommodate the work of photographers, illustrators, and artists within the framework of the Canadian Copyright Licensing Agency.
3. For recorded music, the large international catalogues maintained by [BMI](#) and [EMI](#) can help in finding the appropriate agency address.
4. For dramatic works performance rights, a major clearing house is [Samuel French, Inc.](#).

Other Copyright Resources

Your primary resource for understanding the law and regulations must be the [Copyright Act](#), including various amendments. Recently, the administration of regulations and dissemination of information about intellectual property in Canada has been brought together within the [Canadian Intellectual Property Office](#), a branch of Industry Canada.

The [Canadian Copyright Board](#) has a rich set of resources in English and French. See also material at the site of the [National Library of Canada](#). In Québec, rights for reproduction of books, newspapers and periodicals are administered by [Société québécoise de gestion collective des droits de reproduction](#).

The [Canadian Copyright Licensing Agency](#) represents many authors and publishers.

Frequently Asked Questions

How long does it take to get permission?

A very long time if your event, production schedule, or release date is imminent. A survey of copyright resource Web sites indicates that four to eight weeks will normally elapse between requesting permission and receiving it. The time required for particular requests varies from a few minutes (when a telephone call yields a faxed response) to weeks and months (when a request is misdirected, or a publisher or individual cannot respond in a timely way). It will speed your response if you ensure that your request is complete and accurate, and includes the name of the item for which you are seeking copyright, the author, the source and page number (e.g. name of a hymn book), and information on how you want to use the item.

What is "fair use"?

Small parts of copyright works may be copied "for the purposes of research or private study." Educational institutions, archives, libraries, and museums also hold specific exemptions. Ordinary congregational worship activities, however, do not provide a context for "fair use" of copyright material.

Who controls arrangements, translations, etc.?

You need the permission of the author to make an arrangement, translation, versification, or to include the work, in whole or in part, in another larger work. So, for example, if you include a photo in a slide show, music in a video or on a CD, you should seek the author's permission. While authors have the right to retain the copyright over derivatives of their works, such as translations, they may permit the translator or arranger to claim copyright over the derivative. In this case, subsequent use of the work as arranged, translated, etc. requires permission from both the author and the arranger.

When is the author not the owner?

The author is not the owner once the author assigns the copyright to someone else, or when the work is created by the author on commission or in the normal course of employment for the use of the employer. It is understood that unless an employee has a specific agreement permitting retention of copyright, the ownership will be vested in the employer.

How long do rights in recordings last?

Rights expire 50 years after the end of the calendar year in which the performance occurred, or in which the performance was recorded or broadcast.

Hasn't the Internet changed copyright?

No, not in principle. In recent years, printed material that used to be purchased in quantity often has been reproduced with photocopiers, depriving the publisher and author of any incentive to offer more material. Single copies of audio, video, or still images have been burned onto CDs, posted to the Web and transmitted around the world.

Many Christian writers, composers, and other artists have embraced the new technology and are enthusiastic about the ways in which they can reach others more immediately and directly than ever before.

While the distribution medium has changed, the principle of copyright has not. Authors and publishers have Web sites with interactive permission forms, order forms, and contact information. Even when a work is offered to the public without charge and without obligation to contact or notify the author, the author retains a moral right not to have the work defaced, bowdlerized, taken out of context, or used to sell a product or service. For example, many authors want to know, before they give permission for the reprinting of their songs or the recording of their music, how the music will look, who the performers are, what other material is accompanying their works.