



What you need to know about Copyright and Fair Dealing

Fair Dealing Week is an annual celebration of fair dealing (in Canada and other jurisdictions) and fair use (in the United States). Both fair use and fair dealing are important limitations and exceptions to copyright that enable materials to be fairly copied and communicated in certain circumstances.

Canada's Copyright Act is scheduled to be reviewed in 2017, and attention will be focused on the fair dealing exception. Take a moment to appreciate fair dealing's vitally important role in fostering creativity, innovation, and scholarship – and enabling access to essential educational resources.

What exactly is fair dealing?

We all know that most works are protected by copyright, and that creators have the right to be fairly compensated when people make use of the works they create. But you may not know that users of copyrighted works have rights, too. One of these rights is known as **fair dealing**. Fair dealing is an important user right that gives balance to the copyright system and enables materials to be fairly copied and communicated for purposes such as private study, research, and education, without needing to obtain permission or pay copyright royalties.

In order to ensure your copying is fair, you need to consider factors such as the amount you are copying, whether you are distributing the copy to others, and whether your copying might have a detrimental effect on potential sales of the original work.

IS YOUR COPYING FAIR DEALING?

Fair dealing allows copying from books, journals, newspapers, the internet, sound recordings, videos and many other resources, as long as it's for one of the following fair dealing purposes: private study, research, education, parody, satire, criticism, review or news reporting.

But your copying must also be fair. The Supreme Court of Canada has said the following 6 factors need to be considered when determining whether it is fair to make a copy:

1. The purpose for making the copy – a non-commercial purpose such as research or education, is more likely to be fair
2. The character of your copying – a single, one-off copy is more likely to be fair than multiple copies widely distributed
3. The amount you are copying – a short excerpt tends to be more fair than a large portion of a work
4. Whether there are alternatives to copying – your copying is more likely to be fair if there were no reasonable alternatives to making the copy
5. The nature of the work being copied – copying works that are not confidential, or are intended to be widely shared, is more likely to be fair
6. The effect of the copying on the market for the original work – copying will tend to be fair if it has no detrimental impact on sales of the original



fair dealing
week

Fair Dealing is for everyone

You probably make use of fair dealing every day without even realizing it, whether e-mailing a news article to a friend, using a clip from a song, or quoting passages from a book when writing an essay.

Activities such as these are not considered to be copyright infringement - in fact, the ability for users to make copies for specific purposes is an integral part of the Copyright Act.

What the Supreme Court has said about Fair Dealing

Canada's Supreme Court has strongly supported fair dealing as a user's right. Here are some of the things the Supreme Court has said about fair dealing:

- "As an integral part of the scheme of copyright law, fair dealing is always available"
- "Any act falling within the fair dealing exception will not be an infringement of copyright"
- "The fair dealing exception, like other exceptions in the Copyright Act, is a user's right"
- "[Fair dealing]...must be given a large and liberal interpretation, in order to ensure that users' rights are not unduly constrained"
- Fair dealing is technologically neutral; in other words, copies can be in print or electronic form.
- Copies made by instructors on behalf of their students can be fair dealing.

Fair dealing is critical to education

When Canada's Copyright Act was amended in 2012, "education" was added to the list of available fair dealing purposes. One of the government's intentions in expanding the scope of fair dealing was to "allow educators and students to make greater use of copyright material."

There are many ways in which educational institutions use fair dealing to facilitate access to materials used in teaching, learning and research. Libraries may use fair dealing to provide course reserve readings or to deliver research and study materials via interlibrary loan. Instructors may use fair dealing to make content available in CourseLink, or in the classroom. Researchers may use fair dealing to facilitate their research by sharing scholarly materials with their peers.

Need more information?

Contact Heather Martin, University of Guelph Copyright Officer,
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Phone: 519-824-4120 x 54701

Web: <http://www.lib.uoguelph.ca/about/policies/copyright>