

**S**o you've understood the basics of copyright in your own work: see **What you should know about copyright**, overleaf. Now you want to know when it's OK to use other people's work.

Maybe you've just been commissioned for a rush "cuttings job" biography. Of course we couldn't possibly recommend anything other than thorough original research and talking to sources directly... but these things happen. And the rules setting out what you can and cannot do are surrounded by enough urban legends to build an edifice of ghost law.

We have **highlighted** some of the terms you may come across in discussion: see the link at the foot of the page for a glossary.

**0** Copyright exists in words and pictures and sounds – not in facts or ideas, but in their **expression**. So it is in general OK to read a source document, understand it, and write what it says but in entirely different words.

**I**n UK law, **exceptions** to the copyright in the material you quote are quite clearly defined. They allow you to use quotes for the purposes of reporting news and current affairs; or of criticism and review; or, since 2014, for "quotation" in general and for "parody". The news exception does *not* allow you to use photographs. All we have to say about "quoting" pictures is: always get a **licence**. The law changed in 2014, but as with any Act of Parliament we don't know what it *means* until it's been through the courts, at least to Appeal level, and this hasn't.

If challenged, you have to show that your quotation was "**fair dealing**" – in essence that you didn't rip off the author. The US concept of "fair use" does not apply anywhere outside the US. (It is loosely defined: *everything* depends on the judge, if it goes to court.)

There are no "magic numbers". There is no rule about quoting 23 words for journalism, or any specific amount.

**2** You must give "sufficient acknowledgement" by law in many cases – unless this would be "impossible for reasons of practicality or otherwise". What that "impossible" means is unknown –

and it may never be known if no-one can afford to go to court.

Anyway, you'd want other journalists to credit you when they lift your quotes. The law *requires* attribution when, for example, you quote a book in a review. Doing so may make people less likely to think "lawyer!" but does not, by itself, stop the use you make being a breach of copyright.

**3** Copyright in interviews belongs to the person who spoke. But if someone answers your questions without demur, they give you a **licence** to use their words. Before you use direct quotes from an interview someone else did, you need the interviewer's permission and you need to know that the interviewee did not prohibit the use you plan (so they didn't say "no way is this going in the *Stun!*"). Anyone who re-interviews your sources can use the new interviews.

**4** Spin doctors and PRs for stars may sometimes make threatening noises about something being absolutely protected by copyright when they're desperate to suppress it. UK law is clear that if news reporting of what their client/puppet said is genuinely **in the public interest** – not just interesting to members of the public – it can and should be quoted.

You're on much rockier ground with unpublished material than with, say, borrowing small quotes from published interviews. The law on confidentiality may be more relevant than copyright.

**5** The main legal test in the UK for how big a quote can be **fair dealing** is whether the amount you quote diminishes the market value of the original. After all, that's what's going to impel someone to sue. So, like everything else in the US/UK "common law" system, a lot about any court decision on the amount of damage depends on what the judge had for breakfast.

**6** People who post chunks of newspaper articles on social media are being vigorously pursued by the Newspaper Licensing Agency, which collects money for copying but distributes it only to owners, not to freelancers who retain rights. Its demands are effective because to find out whether your use is in fact fair dealing

would be very, very expensive. The only advice worth giving is: don't do that. Take the time to accurately summarise the article and link to it.

**7** There may be no copyright in facts, but in the UK there most certainly is in collections of facts, particularly trainspottery collections of facts like bands' gig lists and, er, locomotive numbers. Mentioning that locomotive D666 was scrapped on Friday 13 August 1982, or that the Dead Goths played Dunstable on that dread day, is OK. Reproduce a significant chunk of the list, and you're in trouble. Reproduce it complete with mistakes, and you have no defence worth speaking of.

**8** Be particularly careful with material created by people outside the UK. French and German authors, for example, have an absolute right to be credited and could in theory drag you over to French or German courts for forgetting to identify them.

**9** It is a very, very bad idea indeed to sign a contract **indemnifying** a publisher or broadcaster against legal fall-out from your work. That means that if you foul up – or, in some contracts, even if they foul up in the editing process – you pay. Bye-bye house! It is anyway a good idea to look into getting the **professional indemnity insurance** that the NUJ offers for members.

**W**hat if this doesn't answer your question? Probably, then, your question was "and what is the magic rule?" There isn't one. There isn't much legal precedent in the UK. It's a judgement call.

### Had your idea ripped off?

So you're annoyed that your story has been written up by other papers? Once more, with feeling: there is no copyright in the story itself – it's all facts and ideas. If they have ripped off a **substantial part** of your *actual words*, contact the NUJ for advice.

And if a publisher or broadcaster has ripped off your programme format proposal, that's a matter of confidentiality, not copyright. See the *Code of Practice for Submission of Programme Proposals* agreed between the NUJ and other creators' groups and programme producers.

What you should know about...



A briefing for members of the NUJ: updated March 2020