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A few things you should know about...

“GIZMOTO”

A briefing for members of the National Union of Journalists

You’ve understood the basics of copyright – see over* – in your own work. 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 they’re surrounded by more urban legends than a mythical sewergator could digest.

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 in different words.

1 There are no “magic numbers”. There is *no rule about quoting 3 per cent being OK*; there is *no rule about quoting 23 words*, or four notes, or any amount.

All this briefing has to say about “quoting” pictures is: always get a licence. The exceptions are usually an issue for broadcasters’ lawyers, rarely journalists. We will concentrate on text, particularly interviews. Let’s say it again: there are *no* percentage rules.

2 Copyright in interviews belongs to the person who recorded them and/or wrote them up. But if they did the interview in the course of employment, or gave in to a rights-grab, it belongs to the publisher.

3 Don’t be bullied. Spin doctors and PRs for music and film stars may sometimes make threatening noises about copyright when they’re desperate to suppress something. UK law is clear that if what their client/puppet said is a matter of genuine public concern, it can and should be quoted – for the purposes of news reporting or of criticism and review.

4 Attributing quotes – saying where you got them from – is a good idea, and courteous. You’d want other journalists to do it when they lift your quotes. Doing so may make people *less likely* to think “lawyer!” But it makes little difference to the question of whether or not the quoting is a breach of copyright.

5 The main legal test in the UK is whether the amount you quoted diminishes the market value of the original. After all, that’s what’s going to impel someone to sue. And so, like everything else in the US/UK “common law” system, an awful lot of this depends on what the judge had for breakfast.

6 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, train numbers. Mention that locomotive D666 was scrapped on Friday 13 June 1997, or that the Dead Goths played Dunstable on that dread day, and you’re OK (bar libel). Reproduce a significant chunk of the list, and you’re in trouble. Reproduce it complete with mistakes, and you don’t have a defence worth speaking of.

7 You’re on much rockier ground with *unpublished* material than with, say, borrowing quotes from published interviews. The law on confidentiality may be more relevant than copyright. If you’re quoting from correspondence that fell into your hands, for example, you need to be asking whether a court would find that what you decide to do is in the public interest – and not just interesting to the public.

8 Be particularly careful with material by people outside the UK. Most have stronger rights than authors do in 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. So don’t.

9 It is a very, very bad idea 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 still a good idea, however, to look into getting the professional indemnity insurance* that the NUJ offers for members.

This doesn’t answer your question? Probably, then, your question was “and what is the magic rule?” And, once more, the answer is: *there isn’t one*. There isn’t even 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 not ripped off a substantial part of your *words*, grin and bear it. And anyone who re-interviews your sources owns the new interviews.

And if a publisher or broadcaster has ripped off your story or programme *proposal*, that’s a matter of confidentiality, not copyright. See the Code of Practice for Submission of Programme Proposals* developed by our sister union BECTU.

★ For links, documents and more on authors’ rights see www.londonfreelance.org/ar