

LESSON 1

Creativity in the Online World: Our Roles as Creators and Consumers

Grades: Appropriate for grades 6-9

Time Required: 45-50 minutes

Purpose: To help students identify and understand their roles as ethical creators and consumers online.

Key Concepts:

- In our online lives, we act as both creators and consumers.
- Copyright aims to give creators enough control to provide good incentives to produce work, writing, and art that takes time and labor to make. But it also allows others to draw inspiration from, build upon, and discuss or critique creative works in appropriate ways.



Key Words:

- **Consumer:** An economic term for any person who uses goods or services. Sometimes a consumer buys a good or service. Sometimes, the goods or services are free. Either way, we are consumers when we use something, and it is also true in the digital world. We are consumers when we use online goods and services.
- **Creative Works:** Creative works are the product of creative effort to make something original, including: images (pictures, graphics, paintings, drawings, etc.), music, guitar tabs, video, film, art, dance steps, video games, and all kinds of writing—stories, poems, song lyrics, blog posts, and even social media posts and online reviews.
- **Online Content:** (Or sometimes just “content”) all the information and media you find online—text, images, video, software, games. It includes creative works, like images, music, guitar tabs, video, film, art, dance steps, video games, and all kinds of writing—stories, poems, song lyrics, blog posts, social media posts. It can also include non-creative materials, such as lists and facts.

- **Public Domain:**¹ All the creative work that is not currently subject to copyright protection. This includes works for which the copyright has expired and works to which copyright never applied in the first place, such as government documents. Creative works in the public domain are free for everyone to use.
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PREPARATION

- Computer/TV Screen to show video
- Preview all videos for this lesson to confirm that content in the videos is suitable for your class. Where possible, download videos, rather than stream. View YouTube links in ViewPure.com for more secure viewing.
 - VIDEO: *Planet Earth Live*, “Magic Meerkat Moments,” clip of cameraman's patience while working with meerkats, <https://goo.gl/pF8tno>
 - VIDEO: *Planet Earth*, “Polar Bear Encounter,” clip of cameramen facing risks and waiting 4 weeks to see a female polar bear emerge from her den, <https://goo.gl/4zGVDi>
 - VIDEO: “What's Up with Copyright Anyway?—A Brief (Very Brief) History and Copyright Basics,” <https://goo.gl/tOlbcn>
 - VIDEO: “Permission Not Required—The Limitations of Copyright: Facts & Ideas, Fair Use, and Time (Public Domain),” <https://goo.gl/Q7ee1g>
 - VIDEO (optional) : “Creativity, Copyright, and Fair Use for Ethical Digital Citizens,” <https://goo.gl/8lMXAJ>
 - VIDEO: “From bullied to bank: How Bethany Mota created a YouTube and fashion empire,” <https://goo.gl/h83AzF>
 - VIDEO: *Frontline* Documentary, “The Persuaders,” <https://goo.gl/RGevyn>

INSTRUCTIONS

- Lesson 1 is designed to give an overview of the concepts that will be covered in all the lessons. For this reason, it is longer than the other lessons. Consider presenting this lesson in 1 60-minute block or divided into two presentations of 40 and 20 minutes.
- Read through the lesson and watch the videos.
- Consider if you will be using an art project that your class has already completed, or provide blank paper for students to do a 5-minute drawing.
- Read through the dialogues provided until you are comfortable allowing the students to respond to your questions.

¹ In these lessons, the term “public domain” is used to refer to all the creative works that are free to use because the copyright either has expired or never applied in the first place. In the United States, this includes creative work published before 1923; for works created between 1923 and 1978, copyright status is more complicated and depends on whether copyright holders took the proper steps to register and renew their copyrights. For works created after 1978, copyright protection is basically automatic. (For more details or to determine if a specific work is in the public domain, see: <http://librarycopyright.net/resources/digitalslider/>). In addition to works for which copyright has expired, the public domain also includes works created by the government (documents, websites, photographs, and video). Finally, because copyright does not cover facts, ideas and discoveries, the term “public domain” is often used to refer to these categories, as well. For purposes of these lessons, however, we use the term “public domain” to refer to the body of *creative works* not currently protected by copyright.

INTRO: GATHERING CONVERSATION

ASK: What kinds of digital devices do you use? At home? At school or the library?

[Accept responses: Cell phone, tablet, iPod, laptop, desktop, webcam, games (Wii, XBOX, Playstation, Nintendo), camera, video camera, etc.]

ASK: What do you like to do online?

[Homework, music, TV/movies, talk to friends, etc.]

ASK: What do you like to create and post online? What about your friends and family? . . . What do they like to create and post online?

[Photos, art, music, movies/video, all kinds of writing: social media posts (Facebook, Instagram, Twitter, Tumblr), stories, poetry, blog posts, online reviews like on Amazon, Yelp, or Google+.]

What kind of creativity do you contribute to your online communities?

[Accept responses: social media posts, photos, video, audio recordings, art, music, new designs for clothing or shoes or video games. Have you ever tried to make a video game? That is creative work too.]

LESSON: PART A

Explore the ethical roles of creator and consumer online

CREATORS OF CONTENT ONLINE

Did you know you are a creator/artist/writer/photographer online? Have you thought of yourself as an artist when you're creating things to put online? Give me some examples.

[Accept responses: When you:

- *post a photo to Instagram, Facebook, or Twitter, you're a creator—a photographer.*
- *write a blog post, online review, tweet, poem, song lyrics—you're a writer.*
- *paint or draw a piece of art—you're an artist.*
- *design a video game—you're a designer.]*

What kinds of photos do you like to take?

[Accept responses: selfies, pictures with friends, before-and-after photos, pets, landscapes, nature close-ups (flowers, bees, grass, etc.), urban photos (architecture, bridges, sidewalk cracks), cars]

How do you share them with others?

[Accept responses: social media (Facebook, Twitter, Instagram, Tumblr, Snapchat), photo sharing sites (Flickr, Snapfish, Google+, Shutterfly.)]

When you make a video, you are a creator—an artist, a movie maker. Have you ever posted a video online? What was it? What kinds of videos do you make?

[Accept responses: allow students to give examples with some detail—Vines with friends, selfies, song covers, funny video parodies.]

When you write a blog post or write a short story or a poem—you are a writer or a creator.

Sometimes we think of artists, musicians, and writers as being adults with fancy careers, but it doesn't matter how old you are or if you are selling your creations or not. If you are creating new things, you are an artist/writer/filmmaker/photographer/designer.

It used to be difficult for regular people to widely publish books, movies, or other creative works without the backing of large corporations. But in the digital world, everyone can be a movie maker, published writer, artist, song writer, etc.

[Example: When you take video and upload it to YouTube, you are a creator/filmmaker. Did you know, 100 hours of video are uploaded to YouTube every minute?]

Do you see yourself in this way—as an artist and creator? *[Accept responses and encourage discussion.]*

CONSUMERS OF CONTENT ONLINE

Did you know, you are also a consumer online? We hear this word a lot, what is a “consumer”? *[Accept responses: Someone who buys or uses goods or services. This includes online goods and services.]*

Right, it's an economic word that means anyone who uses (or consumes) a service or good. We are all consumers when we buy our food or go to the movies. We're consumers when we shop at the grocery store, buy new clothes, or use a service like seeing a doctor or having our carpets cleaned.

Online, we are consumers when we listen to a song, or watch video clips on YouTube, or a movie on Netflix, or a TV show on Hulu. We're also consumers when we look at our friends' Instagram photos or Facebook pages. Even if we don't have to pay for a good or service (like Instagram), we are still consumers. (Advertisers pay a lot of money to put their ads where you will see them, like in free apps and on social media. Your clicks on those pages mean more money for those website and content owners.) Any time you use media online for homework, or to check your profiles, you are a consumer.

When was the last time you were a consumer online? What were you doing? *[Accept responses: browsing social media accounts (Facebook, Twitter, Instagram, Tumblr, Vine), watching YouTube videos, searching for homework answers, etc.]*

We are all both creators and consumers on the internet, and we want to share and interact with other people's creative work the same way we would want them to share and interact with ours. This is an important part of being a good digital citizen.

Activity: Making and Sharing creative work

Ask students to spend five minutes making a drawing. [Or use a previously completed project or assignment that applies to your curriculum. The drawing activity can be substituted with a story, poem, song, etc.]

Discussion:

What are the ways you can share this drawing with others? Who might you want to share this with? Or, would you choose NOT to share it?

Split the class into small discussion groups where each student describes the answers to these questions.

If possible, ask the students to share their drawing in some form digitally. [Take a picture with their phone and post to Instagram/Facebook, email to a parent, upload to flickr to share.]

Have 3-4 students discuss their sharing ideas with the class.

Did any of you choose not to share your drawing or limit it to a small group of people? Why? *[Accept responses.]*

What if someone else shared it for you? Without your permission? What do you think about that? *[Accept responses.]*

What if it took you more than five minutes to make? What if it took you six months or a year, working many hours each day? *[Accept responses.]*

What if it cost a lot to make, for example if you had to travel to a faraway place or use special equipment that was very expensive? *[Accept responses.]*

What if you're a professional and this is your livelihood? Would that make a difference? *[Accept responses.]*

Think about these questions while we watch a short clip about a really unusual video project—a documentary called *Planet Earth*. It took thousands of hours and many people to make.

Case study: Planet Earth Video

Show students one or both of the following clips about Planet Earth's intense creation process.

Cameraman's patience while working with meerkats: <https://goo.gl/pF8tno>

Cameramen facing risks and waiting 4 weeks to see a female polar bear emerge from her den: <https://goo.gl/4zGVDi>

Discussion:

Why do you think cameramen and scientists were willing to take serious risks to create this mini-series? *[Accept responses.]*

Think about the drawing you created in five minutes. How would you feel differently about others sharing your work if you had spent 6 months to a year on it? *[Accept responses.]*

What would motivate you to devote half a year to a project? *[Accept responses.]*

How important would it be to you to have others recognize that YOU get to decide where and how to post it online? *[Accept responses.]*

What if it cost a lot to make, for example if you had to travel to a far away place or use special equipment that was very expensive? *[Accept responses.]*

What if you're a professional and this is your livelihood? Would that make a difference? *[Accept responses.]*

Purpose of Copyright

Let's think about your drawings *[art project]* again. It may have only taken you five minutes, but did you know you just created something with legal protection? It's a copyrighted work. Did you know you did that?

How do you feel about that? *[Accept responses.]*

We're going to talk about what that means.

There's a really interesting idea written into the Constitution that allows creators and inventors to have a significant amount of control over how their work is shared and distributed, but that control doesn't last forever!

Here's a video that explains this concept.

PLAY VIDEO: "What's Up with Copyright Anyway?— A Brief (Very Brief) History and Copyright Basics,"
<https://goo.gl/XoT4j6>

The framers of the Constitution wanted to give artists and creators time to benefit from their work before it becomes part of the public domain where it is free to be used by everyone. Listen to these words that they put into our Constitution: "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

Current Copyright law today gives several "creator's rights" to people producing creative work. When you create something, you get to decide who can:² make copies, distribute copies, display or perform the work in public, and make derivatives. Let's look at these rights individually:

² NOTE TO EDUCATORS: *Current copyright law enumerates six specific rights of copyright: When you make an original work, you get to decide who can use your work to:*

1. *make copies, like prints, photocopies, or digital copies*
2. *make any derivatives of a work, using part of the work or all of it (for example, making a movie from a book)*
3. *distribute copies of the work, such as in a bookstore or on a Web site*
4. *display the work in public, for example, at an art gallery or on a Web site*
5. *publicly perform the work if it's a play, piece of music, ballet, or anything else that can be performed by others*
6. *digitally perform sound recordings (for example, streaming a concert online)*

These six rights have been simplified in the lessons here for easy classroom discussion.

1. Make copies—this means photocopies or digital copies.
What does this look like online? *[Cutting and pasting text or images; Downloading photos; Downloading a song, etc.]*
2. Distribute copies—this means giving away or selling copies.
What does this look like online? *[Emailing or texting or letting others download material you have uploaded to a website]*
3. Display or perform the work in public.
Have you ever performed or displayed a work in public? Where/when? *[Accept responses: plays and musicals, concerts, placed art in a gallery, .]*
What does this look like online? *[Posting a photo on a public website. Streaming a concert on Youtube]*
4. Make derivatives (spin-offs)—for example, making a book into a movie or a movie character into a toy.
What “derivative works” have you enjoyed? *[Harry Potter or Wimpy Kid movies, Star Wars video games or books, action figure toys from your favorite movies, etc.]*

So, what kinds of things get protected this way? **Basically, if it involves creativity and it’s written down, recorded, or saved digitally, then it is protected by copyright.** Can you think of some categories of things that would include? *[Accept responses, then fill in with the following:]* Those are all great responses: photos, music, song lyrics, books, your pictures on Instagram, movies, videos you make of your friends, a poem once it’s written down or recorded, video games, software, apps—even the doodle you drew on your napkin at a restaurant! Copyright law gives these protections to all kinds of creative work, so long as it is written down, recorded, or saved, and that includes digital copies.

Copyright Limitations

That sounds like a lot of protection, doesn’t it? But there are some important limits—the creator’s control is not absolute. After all, copyright is intended to encourage creativity, and we want people to build on the ideas and creativity of others and be inspired by their work. So ideas are not protected by copyright. And we wouldn’t want authors to be able to stifle criticism or other reasonable fair uses, so copyright rules limit creators’ control through a concept called “**fair use.**”

For example, imagine if you had to ask an author for permission every time you quoted a book or article in your own essay or blog post. That would quickly become a burden and hurt your own creativity. And, copyright is all about *promoting* creativity.

So, what things are NOT protected by copyright? There is no copyright protection at all for ideas, facts, non-creative lists, and government documents:

1. **Ideas**—Other people can use the ideas contained in the work. Only the work and its particular expression (for example, the specific words, images, or sounds) are protected, not the ideas the work contains or communicates.

For example, think about *[Harry Potter, Lord of the Rings—name a creative work relevant to your curriculum]*. The idea of a book about wizards cannot be copyrighted. We can write more stories about wizards; we just can’t publish a new book about Harry Potter at Hogwarts. What

ideas could you use? *[Accept responses: science fiction about space travel or time travel, fantasy stories (wizards and magic), etc.]*

2. **Facts**—Anyone can use the facts included in a non-fiction work. Again, only the creative parts of the work are protected—the specific words, images, sounds—not the facts the work communicates. For example, in the *Planet Earth* video that we watched earlier, in addition to the creative expressions, such as beautiful images, video, and specific sounds, etc., it also communicates interesting facts about the earth. For example, female polar bears like to build their dens on steep slopes. These facts are not protected by copyright. Everyone may use them, anytime.

Tell me some facts that you have learned watching a documentary or informational video on YouTube? *[Accept responses.]* Have you ever watched one of those *National Geographic* videos? You might have learned from those that sharks are born with all their teeth, ready to feed. You are free to use that information wherever you'd like, but copyright restrictions may apply if you want to use the *National Geographic* video itself.

Tell me about a book or magazine article that you learned something from. You may not be able to copy the book, video, etc., but you can use the knowledge you learned in something new you want to create. Where have you learned a fact in a creative work that you might use in your own creative work? *[Accept responses.]*

3. **Non-creative Lists**—Copyright also does NOT cover non-creative lists of information, such as phone numbers, addresses, etc.
4. **US Government documents**—including videos, websites, photos, etc. Those are free for everyone to copy from.

We're going to watch a video that explains this more.

PLAY VIDEO: Permission Not Required—The Limitations of Copyright: Facts & Ideas, Fair Use, and Time (Public Domain), <https://goo.gl/Q7ee1g> *[Play through Part 1: Facts and Ideas. Pause video at the end of Part 1, and resume conversation.]*

But, even for the kinds of creative work that ARE covered by copyright, the creator's control is not absolute. There are two main limitations:

1. **Fair Use**³: There are situations where we are allowed to copy or share copyrighted works without permission in ways that are still fair to the owner⁴. The legal term for this is "fair use".

³ Note: Fair use is taught in more detail in lesson 4. The discussion here is meant to introduce fair use as a limitation of copyright, not to cover all the details of a fair use analysis.

⁴ Fair use is an important part of copyright law that allows the public to use copyrighted work without permission in certain situations that are still fair to the artist/creator. **Fair use** is a legal doctrine that is decided on a case-by-case basis and can be difficult to determine.

For example, fair use allows you to quote excerpts of books or articles in your own writing. It also allows you to use your DVR to copy television programs so you can watch them at a convenient time. In both of those cases, you're copying someone's creative expression, but you're doing it in such a limited way that it doesn't require permission.

The video will explain this more. As you watch, be thinking about whether or not this limit is fair and if you think it promotes creativity.

CONTINUE VIDEO: "Permission Not Required—The Limitations of Copyright: Facts & Ideas, Fair Use, and Time (Public Domain)" <https://goo.gl/Q7ee1g> [Play through Part 2: Fair Use. Pause video at the end of Part 2, and resume conversation.]

Do you think this limit is fair? *[Accept responses. All opinions are acceptable.]*

Do you think this limit promotes creativity? How? *[Accept responses: new artists can use other creators' inventions as a launchpad for their own. New versions of Shakespeare plays and Jane Austen novels, etc.]* We'll talk a lot more about fair use in Lesson 4 to understand how fair use works to encourage more speech and creativity.

2. **Public Domain:** Did you notice in the video, a creator's rights don't last forever. Eventually, all creative work falls into the public domain. This is how the framers of the Constitution planned it.

Do you think this limit is fair? Do you think it promotes creativity?

CONTINUE VIDEO: "Permission Not Required—The Limitations of Copyright: Facts & Ideas, Fair Use, and Time (Public Domain)" <https://goo.gl/Q7ee1g> [Play through Part 3: Time (Public Domain).]

Do you think this limit is fair? *[Accept responses: all apply.]*

Do you think this limit promotes creativity? How? *[Accept responses. We all benefit from having a large body of creative work to draw from that is free to share and build upon.]*

As we try to simplify fair use for students, we have used the shorthand of saying kids may use content they "need" for educational purposes. However, fair use analysis always involves full consideration of the four factors, weighed together as a whole:

- What is the nature and purpose of your use of the copyrighted work? Why are you using the other person's work? What is the purpose and type of use you are making of the other work? In particular, is your use transformative; that is, does it make a substantial change to the original? Is your use commercial?
- Is the amount you used appropriate and reasonable in light of your purpose? If yes, this will help your fair use claim.
- Even if you've only used a small portion, have you taken and used the "heart" of the work? In some cases, this will hurt your fair use claim.
- Could your use substitute for the original in the marketplace? (e.g., making copies of textbooks for students.) Even if it's not a substitute, will it occupy markets that the copyright owner is entitled to (e.g., markets for sequels and other derivative works)? This will hurt your fair use claim.

Conclusion

So, how does copyright affect you as a creator of creative work? *[Accept responses and summarize: Copyright protects our investment of time and energy into new projects. Copyright allows us to have some control over how our work is copied and shared.]* When you post a video to Instagram or Vine, or text a photo, you are the creator and have some protection for your creative work.

Do you dream of making your own movies, writing songs, designing video games, creating your own app that you could sell online? Do you dream of having your own blog, photography site or writing your own stories? Copyright protects the investment of time and energy you put into these new creations.

We've seen how copyright affects us as creators; now, how do you think copyright might affect you as a consumer of creative work? *[Accept all responses.]*

There is a lot to think about as consumers. Before we use (consume) something, we should ask some questions. What might be important for us to know as consumers?

- Did the creator/owner intend for it to be taken/shared/used in the way I want to use it?
- If not, do I need to ask permission, or is this a situation where some of copyright's limits apply? Like fair use or public domain?

We'll talk more about these questions in the next lesson. For now, remember, copyright aims to give creators enough control to provide good incentives for creating. But it also needs to allow others to draw inspiration from, build upon, and discuss or critique creative works in appropriate ways.

LESSON: PART B

Case Studies and Activities

NOTE: If you are presenting Part B of the lesson as a separate presentation, take a minute to review the basics of copyright and its limitations (from Part A) before beginning Part B.

CASE STUDIES

As time permits, use the following examples to help students understand how copyright works to promote new creative work, (ex.: Bethany Mota and Taylor Swift), and why copyright has limits—how too much control might hurt creativity (ex.: Shakespeare and documentary filmmakers).

Case Studies: Benefits of Copyright

Let's look at how artists and creators benefit from copyright and how copyright encourages more speech and creativity:

Bethany Mota: Fashion Videos on YouTube

Bethany makes her own YouTube fashion videos from her bedroom. She started when she was 14 years-old. Her videos have gathered a large following:

PLAY VIDEO: "From Bullied to Bank: How Bethany Mota Created a YouTube and Fashion Empire,"
<https://goo.gl/h83AzF>

Bethany's videos are free and available to everyone, but she owns them and they are protected by copyright. Because she owns them, she is able to make money through the advertising that plays with her videos. Advertisers, who want to sell their product, pay money to have their ads play at the beginning of her videos. Ads also show on the side of the YouTube screen. All of this creates a financial incentive for Bethany to produce more creative work. Money isn't always—but *can be*—a powerful motivator for creating new art.

Can you think of other examples of this? *[Accept responses: successful books get sequels, this is how people can make a living making creative work.]*

Taylor Swift: Revoking Her Spotify License

Read the following quotes to the students, or project onto the board:

In 2014, Taylor Swift decided to take her music down from Spotify. Some people weren't happy with this decision. She did several interviews about her decision:

Why did you leave Spotify? I'm in an office of people who are upset they can't stream your music.

"Well, they can still listen to my music if they get it on iTunes. I think there should be an inherent value placed on art. I didn't see that happening, perception-wise, when I put my music on Spotify . . . With Beats Music and Rhapsody you have to pay for a premium package in order to access my albums. And that places a perception of value on what I've created. On Spotify, they don't have any settings, or any kind of qualifications for who gets what music. I think that people should feel that there is a value to what musicians have created. . . ⁵

" . . . I'm not willing to contribute my life's work to an experiment that I don't feel fairly compensates the writers, producers, artists, and creators of this music. And I just don't agree with perpetuating the perception that music has no value and should be free. . . . Also, a lot of people were suggesting to me that I try putting new music on Spotify . . . I felt like I was saying to my fans, 'If you create music someday, if you create a painting someday, someone can just walk into a museum, take it off the wall, rip off a corner off it, and it's theirs now and they don't have to pay for it.' I didn't like the perception that it was putting forth. And so I decided to change the way I was doing things."⁶

What do you think is motivating Taylor Swift here? Is it just the money? What are the other factors affecting her choice to take down her songs? *[Have the students review the quotation again if they are struggling for an answer.]*

⁵ "Taylor Swift on 1989, Spotify, Her Next Tour and Female Role Models," Jack Dicky. *Time Magazine*, (Nov 2014). <http://time.com/3578249/taylor-swift-interview/>

⁶ Exclusive: Taylor Swift on Being Pop's Instantly Platinum Wonder... And Why She's Paddling Against the Streams" Chris Willman. Yahoo News (November 6, 2014).

Is this reasonable? Is it fair that she can make that decision? Do you see why the law gives her that choice? *[Accept responses: "Yes, it's fair, because it's her music. She owns it." NOTE: If students express a sentiment that it's NOT fair to themselves that they can't get her music on Spotify, ask them to consider why the law gives the artist the right to decide about how his/her own work is distributed. The purpose of the law is to encourage more creative endeavors by giving certain rights to people who invest the time, money, and creativity to produce something. That includes the right to decide for themselves where their work will be available.]*

How does copyright protect her as an artist? *[Accept responses, and follow up with the explanation below.]*

Copyright gives her control over how her music will be distributed, so she is entitled to put her music on Spotify and then take it down if she wants.

Do you think the ability to make that decision promotes creativity? *[Accept responses. Allow students to explore how ownership provides incentives to the creator to continue to create.]*

Case Studies: Why Copyright Needs Limits

Now let's look at an example of why copyright has limits built into it. If copyright gave authors *too much* control, that would actually be *bad* for creativity.

Shakespeare

Think of all the plays that Shakespeare wrote and how many productions and adaptations have been done in the last 400 years. Have you seen any of them? *[Accept all responses: [She's the Man (Twelfth Night), West Side Story (Romeo & Juliet), 10 Things I Hate about You (Taming of the Shrew) as well as the movie adaptations of the plays].*

More than 410 feature-length film and TV versions of William Shakespeare's plays have been produced, which makes Shakespeare the most filmed author ever in any language.⁷ What if Shakespeare's family still held control over his work and anyone who wanted to do a public performance or make a new movie adaptation needed to get permission and/or pay royalty fees to the family? Do you think we would have those 410 films today? *[Probably not. Needing to license and get permission would make it more complicated and expensive to produce Shakespeare's works.]*

Documentary Filmmakers

Documentary filmmaking is another situation where too much author control could make it hard to produce new work. Because the filmmakers are working with real-life situations, they are surrounded with copyrighted works (like music playing in a restaurant or firemen in a fire station watching TV), and often they need to use copyrighted work to illustrate an important point.

⁷ Young, Mark (ed.). The Guinness Book of Records 1999, Bantam Books, 358; Voigts-Virchow, Eckartm (2004), Janespotting and Beyond: British Heritage Retrovisions Since the Mid-1990s, Gunter Narr Verlag, 92.

For example, here is a clip of a documentary called *The Persuaders*. It shows a team of advertisers considering a TV commercial that includes a song, "Downtown," by Petula Clark. The song is incidental to the film story and plays in the background, but it is still present in the film.

PLAY VIDEO: Frontline Documentary "The Persuaders," <https://goo.gl/RGevyn>

Do you think having a clip of a song in a documentary film is going to substitute for the original in the marketplace? Would allowing this kind of use hurt the creator's ability to sell his/her song/video etc.? What do you think? *[Accept responses. Probably not much.]*

Will people stop buying the original song or renting episodes of a TV show because they saw a few seconds of it in a documentary? *[Accept responses. No, probably not.]*

Would it be fair if a documentary maker couldn't show firemen in their firehouse because a TV show played in the background? Does that seem fair to you? On the other side, is it fair to the owners of the TV shows to have their work play in a documentary without permission? Would it have any negative effect for the creator of the TV show? These are all things to consider when you jump into a creative project.

We'll talk more in Lesson 4 about why these examples are likely fair use. Filmmakers rely on fair use to allow them to show us the real world in ways that don't infringe on the rights of the creators whose works may appear incidentally in the background. The fair use limit on copyright in this situation makes it easier for filmmakers to tell their stories and make new films.

ACTIVITY: Scenarios

We know that when we share our information online, it can have consequences for our personal privacy. When we share our creative work online, how others interact with it can have implications for our creativity.

Discuss as a class or in small groups:

1. What if you wrote a poem intended for someone special to you and someone else took a photo of it and instagrammed it without your permission?
2. What if you took a photo of a personal event and someone sold it to a newspaper? Or, what if you took a photo of a current news event, instagrammed it, and someone else gave permission to newspapers to publish it without telling you?

Wrap-up

Copyright aims to benefit us both as creators of our own work and as consumers of the creativity of others. Copyright encourages new speech and creativity by giving incentives to produce work, writing, and art that takes time and labor to produce. It also has limits, so that today's creativity can help fuel more creativity in the future. In our next lesson, we'll talk more about how copyright affects us as digital consumers.