Guide to copying, copyright and licensing

- **What is copying?**

“Copying” includes the photocopying, scanning, emailing, faxing and printing out of articles, whether for your own use, or to share with a colleague or a wider distribution list. It also includes placing articles on a multi-user resource, such as an intranet or shared drive.

Copying may happen on an occasional basis or on a frequent basis – for example as part of a regular news feed, such as that provided to a client by a PR or media monitoring agency.

NLA media access sells licences for both occasional and frequent copying, and for hardcopy and digital content.

- **How is copyright relevant?**

Copyright gives the owner the exclusive right over uses of their content, normally for a defined period of time. This right includes the stipulation that the whole or a “substantial part” of their work cannot be copied or distributed without their permission.

The law provides a “fair use” exception that permits copying of articles in certain limited circumstances — for example, for non-commercial or private research, or for purposes of criticism, review or reporting of current events.

- **Who owns copyright?**

The author of a work typically owns copyright (unless they have created it in the course of their employment, in which case copyright usually belongs to the employer).

Copyright can be sold, assigned, licensed, inherited and transferred (in whole or in part).

Publishers should have a contract with their freelancers to set out how they can use the freelancer’s work, including, if required, that copyright may be licensed or assigned to the publisher. If no contract exists, the position may be ambiguous and, in the event of a dispute, the matter could end up in court – so written terms are important.

In the UK, copyright in ‘literary works’ (which include magazine articles) lasts for 70 years beyond the death of the author. ‘Typographical copyright’ also applies to an article and its layout in newspapers and magazines, and this copyright lasts for 25 years from the date of publication.
• **What is “secondary licensing”?**

Secondary licensing means the licensing to businesses or public bodies of some rights to use certain content in return for a payment – as facilitated by agencies such as NLA media access.

It is called “secondary” in contrast to the primary sale or publication of work needed to bring the content to market in the first place.

• **What is “collective licensing”?**

Collective licensing schemes are usually joined by publishers who want to conduct secondary licensing of their content.

It’s typically more cost-effective for both users and smaller publishers to license their content on a collective basis, than each user and each publisher handling individual copying requests.

NLA media access sells collective licences covering newspaper and magazine titles to businesses. How much a business pays is driven by the size of the business, how many titles it wants to copy from, and the frequency and type of copying. The net revenue — or royalties — from these collective licence fees is then distributed to the relevant publishers.

• **How to be clear on copyright**

The agreement publishers make with a licensing body (such as NLA media access or, in the case of magazines, the Publishers Licensing Society (PLS)) gives them the right to license content to their clients, typically on a non-exclusive basis. The agreement with the NLA grants the NLA the necessary rights to all content in a publication, and asks for an indemnity — a promise to back up a copyright claim — from the publisher as confirmation.

NLA media access encourages publishers to be clear with contributors on the consents that are granted in commissioned work. It recommends that all third-party content (text, photographs, illustrations, graphics etc) should be acquired on terms that contain specific clearance for work to be included in copying licences. Some examples from publishers who make their standard terms open can be found on the Guardian and Independent websites. As you will note, authors can keep their copyright and still grant the publisher the rights needed for licensing.

Magazine publishers seeking royalties from secondary licensing of their content should sign a mandate with their industry body, the PLS. NLA media access is an agency that issues collective licences to businesses that copy content, and feeds royalties back to publishers via the PLS.
Further information:

NLA media access’ pages on licensing (as a copier), and getting your content licensed (as a magazine publisher)

The Publishers’ Licensing Society on collective licensing

UK Intellectual Property Office has a whole section on copyright: including an essential copyright guide (PDF)

Paper for our partner agency the CLA on the economics of copyright: An economic analysis of copyright, secondary copyright and collective licensing (PDF). By PwC March 2011