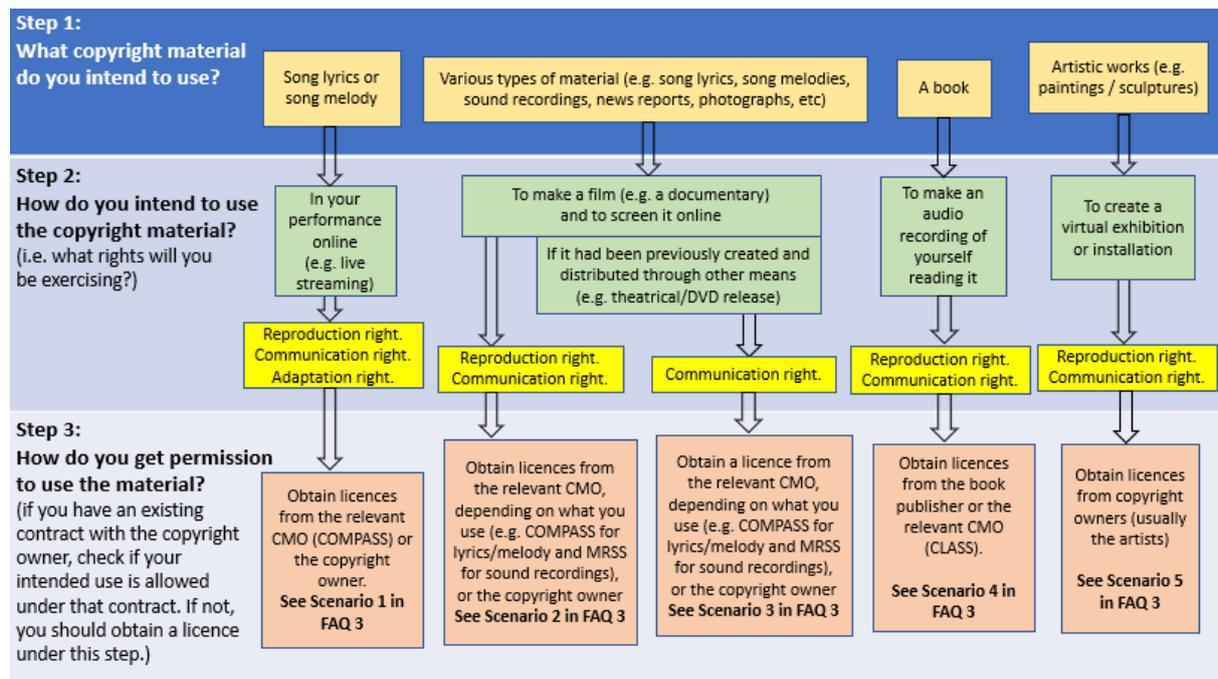


Frequently Asked Questions on Creation and Online Distribution of Digital Content

Many creators, including artists, arts groups and other organisations, are increasingly creating digital content and distributing it online, whether through live streaming or uploading videos of their performances. Given the copyright issues involved in these activities, we have prepared a list of frequently asked questions to support our creators in their efforts to go digital.

This list of FAQs focuses on rights clearance in the digital space. We set out below a flowchart that summarises the main issues you should consider as you go through this document.



1. What is copyright material and who owns them?

Generally, a person who creates original content owns the copyright to that material. Such material will be protected under Singapore’s copyright laws.

A wide range of copyright material is protected, whether they are in physical or electronic format, including:

- Literary works such as e-books, blog posts, and song lyrics.
- Dramatic works such as scripts for drama and choreographic script for dance routines.
- Musical works such as melodies.
- Artistic works such as paintings, sculptures, photographs, digital illustrations and website images.
- Sound recordings.
- Films, such as movies, feature films, and video clips on online platforms.
- Performances, such as live performances (including an improvisation) of dramatic or musical works, recitations of literary works, or performances of a dance.

If you have created any of the above material, you do not need to register your work to enjoy copyright protection; in that sense, protection is “automatic”. As a copyright

owner, you are entitled to various exclusive rights, such as the right to prevent others from:

- Reproducing or copying the material.
- Performing the material in public.
- Making an adaptation of the material.
- Communicating the material to the public, including making available the material on the internet.

The specific rights depend on the type of material involved. For more details, please refer to our webpage on [Rights of a Copyright Owner](#).

Copyright does not last forever. The duration of copyright protection varies according to the type of material involved. If you are dealing with very old works, they are likely to be in the public domain. That means they are no longer protected by copyright and can be freely used. For details on the specific duration of protection for each type of copyright material, please refer to the [Term of Protection section](#) of our copyright resources page.

2. **If my work makes use of others' copyright material, is it also protected by copyright and who owns it?**

Generally yes. To the extent that what you have created is original, you will own the copyright in your work, which is separate from the copyright in the works you have used.

For example:

- If you create a digital collage using art works made by others, you would own any copyright in the collage. However, those art works may have separate copyright protection and you would need to get permission from the copyright owners (usually the artists).
- If you arrange an existing musical work differently, you would own any copyright in the new arrangement. However, you would need permission from the copyright owner of the original musical work to adapt his music.

3. **When and how should I get permission to use copyright materials owned by others?**

Unless there are exceptions (See FAQ No. 10) or copyright has expired, you will generally need to obtain permission to use the material. Otherwise, you would be infringing copyright.

Ask yourself 3 things:

1) **What is the copyright material that I intend to use?**

Sometimes, you may need to use more than one type of copyright material for your purposes, and each material could have more than one copyright owner. You must obtain permission for all the materials used, and from all the owners of each of the materials. For example, if you make an audio recording of an actor's live recital of a book and your work involves making the recording available online, you would need permission from (a) the owner of the literary copyright in the book (which could be the publisher or the author, depending on the terms of the publishing contract), and (b) the actor as his recital is a protected performance.

2) How do I intend to use the material?

Put another way, what rights do I need from the copyright owner to not infringe copyright? A copyright owner has certain exclusive rights which may prevent your use of the material. Your intended usage of the material determines which of these rights are involved and hence, the nature of the permission you would need from the owner. See the types of rights under FAQ No.1 above.

3) How should I get permission to use the material and who should I approach?

Generally, you will need to approach the copyright owner and the first step is to look for the copyright notice on the work you wish to use.

The rights to certain types of works, typically music, sound recordings, films and books, are managed by collective management organisations (CMOs). CMOs are appointed by copyright owners to manage the rights in their copyright-protected works. They grant licences to use copyright works, as well as collect royalties and enforce rights on behalf of the copyright owners.

Singapore has a handful of CMOs, which generally administer different rights for different works. You can find out more about the various CMOs and the different rights they administer [here](#). If they do not administer the rights exclusively, you may also choose to approach the copyright owner directly instead.

Here are some scenarios which you may encounter when creating your digital content and distributing it online:

No.	Scenario	(1) What is the copyright material that I intend to use?	(2) How do I intend to use the material?	(3) How should I get permission to use the material and who should I approach?
1.	Making available your performance of a song online, including by live streaming.	<ul style="list-style-type: none">• Song lyrics• Melody of the song	<p>Making the material available online (eg. by live streaming), which entails:</p> <ul style="list-style-type: none">• Reproducing the material• Communicating the material to the public <p>In addition:</p> <ul style="list-style-type: none">• If you are performing a different musical arrangement, you would also be making an adaptation of the melody.	<p>You may approach COMPASS, a CMO that represents composers and lyricists, to check if the rights to the song that you intend to use are administered by them, and if so, obtain a licence for your intended use.</p> <p>But if the CMO does not own the rights you require, or does not own those rights exclusively, you can also approach the copyright owner</p>

No.	Scenario	(1) What is the copyright material that I intend to use?	(2) How do I intend to use the material?	(3) How should I get permission to use the material and who should I approach?
			<ul style="list-style-type: none"> If your performance or live stream will be played before an audience at a certain performance venue, you would also be performing the material in public. 	<p>directly to obtain a licence instead.</p>
2.	<p>Making a film (such as a documentary) for online screening.</p>	<p>All elements that go into the film, such as music (song lyrics, melody, sound recordings), news reports, photographs, and other underlying source materials.</p>	<p>Making available online, which entails:</p> <ul style="list-style-type: none"> Reproducing the material Communicating the material to the public <p>If your film will also be screened at a certain performance venue, it would also entail performing the material in public.</p>	<p>For any lyrics or melodies, you may approach COMPASS, or the copyright owner directly (see Scenario 1 above).</p> <p>For any sound recordings, you may approach MRSS, a CMO that represents major record labels, to check if the rights to the song that you intend to use are administered by them. You should describe your intended use, including whether it is for a commercial or non-commercial purpose. Depending on this, MRSS may be able to grant you the appropriate licence you require.</p> <p>But if the CMO does not own the rights you require, or does not own those rights exclusively, you can also approach the copyright owner directly to negotiate a licence instead.</p> <p>For all other materials, it would depend on the</p>

No.	Scenario	(1) What is the copyright material that I intend to use?	(2) How do I intend to use the material?	(3) How should I get permission to use the material and who should I approach?
				type of material and its source.
3.	Same as Scenario 2, except that you now want to make available online, a film you had previously created and distributed through other means (eg. theatrical or DVD release).	Same as Scenario 2.	Making available online, which entails communicating the material to the public. Assuming you had previously cleared the necessary rights when the film was created, you should check your previous rights clearances to see if they include online communication rights.	Same as Scenario 2, subject to previous rights clearances.
4.	Making available online an audio recording of yourself reading from a book.	The literary work comprised in the book.	Same as Scenario 2 above.	<p>You may approach the book publisher to check how to obtain the necessary licence.</p> <p>Alternatively, you may approach CLASS, a CMO that represents authors and book publishers with an emphasis on educational materials, to check if they administer the material and, if so, to obtain a licence for your intended use.</p>
5.	Creating a virtual exhibition or installation of artistic works such as paintings and sculptures	<ul style="list-style-type: none"> Artistic works 	<p>To create a virtual exhibition that is available online. This entails:</p> <ul style="list-style-type: none"> Reproducing the material, including making electronic copies of physical works. Communicating the material to the public. 	You may approach the artists directly. If they are not the copyright owners, they may be able to direct you to the owners.

4. What do I need to pay to use others' copyright materials?

You will need to pay a licence fee for the material you intend to use, and for the purpose you intend to use it for.

CMOs offer different tariffs based on factors such as the type of material used and the purpose for the use of the material. For example, if you intend to live stream a performance, you may need to obtain a one-day permit that will cover that particular event. On the other hand, if you intend to upload a video onto a website, you may require a digital licence that covers digital reproduction over the audience's devices.

Some copyright owners or CMOs may also be open to negotiating a mutually-agreed fee, depending on the nature of the use of the material.

In some situations, you may need to obtain more than one licence. For example, you may need to obtain an additional digital licence to distribute content online even if you already hold a licence to use the same content in other ways (e.g. as mechanical music at a venue).

5. Does it matter where or how I make others' copyright materials available online, such as via a website, an online platform (e.g. YouTube, Zoom) or social media (e.g. Facebook, Instagram)? How about uploading vs live streaming?

In terms of the nature of the permission you need from the copyright owners, there is little difference as the copyright materials are essentially being used in the same way – in all cases, you would be communicating others' copyright materials to the public by making it available on the internet and you would need a licence for using the materials in this manner.

However, the exact manner in which you use the materials, such as whether it is a once-off use via a live stream, or whether the material will be put up online more permanently, could affect how much you have to pay to use the materials. (See FAQ No. 4)

Furthermore, because every online website or platform has different terms and conditions, there could be differences in terms of:

- the terms of use which you need to comply with;
- the scope of the rights that you would be granting to the website or platform owner by using the website or platform; and
- how the website or platform owner would treat your work if it is found to infringe others' copyright, and vice versa.

Before deciding which website or platform to use, you should spend some time reviewing the terms and conditions of the different websites and platforms to determine which are the most favourable to you, taking into account other important factors such as the website's or platform's revenue sharing model and potential subscriber base.

6. Can I use any copyright materials so long as they are freely accessible online, such as images on a website or someone's social media post?

No, this is a common misconception. Just because content is freely accessible online does not mean it is free for you to use. For example, you should check the terms and conditions of a website or social media platform to see if they address your intended

use of the materials and, where necessary, contact the copyright owner to seek permission.

7. Do I need permission to use others' copyright materials in my digital work if I already have a physical or electronic copy of the materials?

Yes. Possessing or owning a physical copy of a copyright material (such as a hardcopy book or a painting) or an electronic copy of a copyright material (such as a digital file of a song you have ripped from a CD-ROM or downloaded from YouTube) does not mean you also have a licence to deal with the intellectual property (i.e. copyright) in the materials. This is why in Scenario 5 in FAQ No. 3, for example, you would need permission from the copyright owners of the artworks to create a virtual exhibition of their works, even if the physical works (such as a painting) are owned by you or displayed in your art gallery.

8. I would like to share with others by making available online, certain copyright materials which I find entertaining or informative. Do I need permission to do so?

Yes, the position is the same as stated in FAQ No. 3 above – you would still be using others' copyright materials even though you may not be creating any new content of your own. The fact that you find something entertaining or informative is no excuse, in the absence of any applicable exceptions.

9. I am using others' copyright materials for non-commercial purposes, such as giving a free online performance or performance for charity. Do I still need to get permission from the copyright owners?

Generally, yes. However, if you are using the materials for non-commercial purposes, this may improve your chances of successfully relying on certain copyright exceptions, such as fair dealing (See FAQ No. 10). In addition, as some copyright owners may be willing to waive or reduce their licence fees for using their copyright material for non-commercial purposes, you may also wish to contact the copyright owner to explore these options.

10. When do I not need permission to use copyright materials owned by others?

There are various exceptions and defences to copyright infringement under Singapore's copyright law. The more commonly applicable exceptions in situations involving creation and online distribution of digital content are described briefly below.

Fair Dealing

One important exception is "fair dealing". This means that you can use copyright-protected content without consent as long as it is a situation of "fair dealing", as determined by the Court. The Court will consider the following factors in deciding if your use of the work is considered "fair dealing":

- The purpose and character of your use (e.g. commercial or non-profit educational purposes)
- The nature of the work
- The amount and substantiality of the part that was copied in relation to the whole work
- The effect of your use on the potential market for, or value of, the work
- The possibility of obtaining the work within a reasonable time at an ordinary commercial price.

In other cases, fair dealings for the purpose of criticism, review, or reporting current events do not constitute copyright infringement. In most of these cases, a sufficient acknowledgement of the work is still required.

Specific Education Exceptions

In addition, if your use of copyright materials is for educational purposes, other than the fair dealing exception, there may also be specific education-related exceptions that may be applicable. For more details, please refer to our [Copyright Infosheet for Educators](#).

11. How do I prevent others from making unauthorised use of my copyright materials online?

You may place a copyright notice and/or a digital watermark on your work. If your work is available on your own website, you can also prohibit unauthorised use in your website terms of use. Where appropriate, you can also consider using lower resolution images or short snippets of a film to limit distribution and give others a preview of your work.

12. What can I do if others have infringed my copyright?

Please refer to the [Infringement and Enforcement section](#) of our copyright resources page and our page on [Remedies for Infringement](#).

For further information about copyright, please refer to our [copyright resources page](#) or email ipos_enquiry@ipos.gov.sg.

Last updated on 24 June 2020

© **Intellectual Property Office of Singapore**. This document and its contents are made available on an “as is” basis and for general information only. They do not constitute, and should not be relied on as, legal advice. Please approach a legal professional if you require legal advice. All implied warranties, including those of completeness or accuracy, are disclaimed. You may download, view, print, and reproduce without modifications, this document but only for non-commercial purposes. All other rights are reserved.