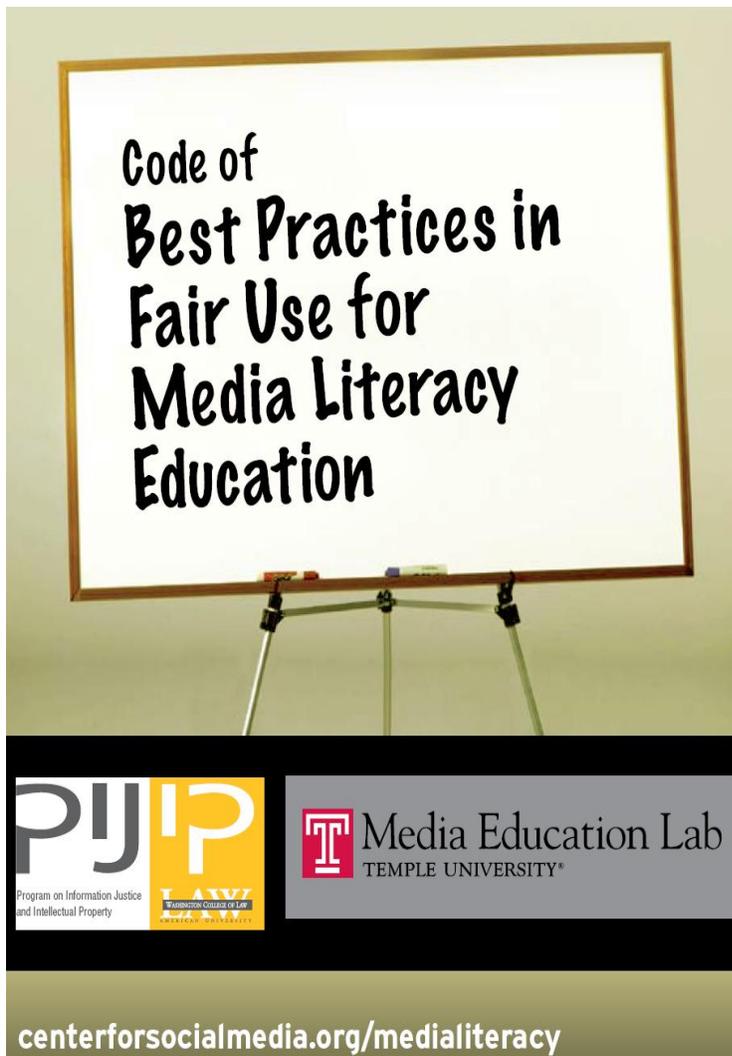

TEACHING ABOUT COPYRIGHT AND FAIR USE FOR MEDIA LITERACY EDUCATION



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Multimedia components of this curriculum are available online at:

<http://mediaeducationlab.com>

TEACHING ABOUT COPYRIGHT AND FAIR USE

FOR MEDIA LITERACY EDUCATION

This curriculum is designed for educators interested in exploring copyright and fair use in relation to the *Code of Best Practices in Fair Use for Media Literacy Education*. Please read the Code before using these curriculum materials.

I. Overview, Context and Background..... 3

Learn why it’s important for educators to explore issues of copyright and fair use with students.

II. Lessons

1. Understanding Copyright..... 6

Learn about how copyright law protects both the rights of owners and the rights of users in order to promote creativity for the good of society.

2. The Cost of Copyright Confusion..... 12

Explore how lack of knowledge about copyright and fair use negatively affects teaching and learning.

3. Defining and Applying Fair Use 17

Learn more about Section 107 of the Copyright Act and see how fair use and transformativeness applies to the practice of teaching and learning.

4. The Five Principles..... 23

Examine the Code of Best Practices in Fair Use for Media Literacy Education to learn how educators use it as a tool in making decisions about the use of copyrighted materials to promote critical thinking and communication skills.

5. Advocacy..... 28

Learn how ideas about copyright are in transition as a result of changes in communication technologies and appreciate how the “best practices” model enables creative communities to develop a robust interpretation of fair use.

Resources for Learning More..... 32

Each lesson contains activities and readings for three different levels: (A) high school; (B) undergraduate; and (C) graduate. NOTE: Lesson plans focus on activities for high school and undergraduate learners.

All songs, readings and video resources used in this lesson are available online at: <http://mediaeducationlab.com>

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TEACHING ABOUT COPYRIGHT AND FAIR USE

FOR MEDIA LITERACY EDUCATION

Overview

Ethical and legal issues surround the creation, processing, and use of information and entertainment in ways that vitally affect teaching and learning in the 21st century. Key among them is copyright law, an area in which teachers and students are often uncertain. This study guide responds to the need for relevant, useful information about how copyright and fair use apply to the work of teachers and students at all levels: graduate programs at universities, teacher education programs, undergraduate colleges and community colleges, K-12 schools, and non-school settings such as youth development and community-based programs.

In this guide, we focus on copyright and fair use as it relates to the use of copyrighted materials from mass media, popular culture and digital media for media literacy education. Media literacy education promotes heightened consciousness of media's role in personal and social life, strengthens skills of critical analysis, and develops people's ability to use language, print, sound, visual and digital media for self-expression, communication and citizenship.

Every student deserves to have a sound understanding of copyright and fair use as a fundamental part of our legal system since copyright law affects the way we gather, share, create and use the intellectual property that is constantly being generated in our culture. The Code of Best Practices in Fair Use for Media Literacy Education enhances educators' confidence about how the law affects teaching and learning. The readings, lesson plans, activities and resources in this guide give educators tools to start rich conversations about the topic of copyright and fair use. These materials help educators and students understand the legal and ethical uses of copyrighted material for teaching and learning that are protected under the doctrine of fair use.

Context and Background

When most people think of the word, "copyright," they think about the rights of owners to control access to their intellectual property. This is accurate, but it is not the whole story. As the U.S. Constitution says, the purpose of copyright is to promote the spread of knowledge and innovation. The intellectual property rights provision of the Constitution was included because the Founders believed -- correctly -- that encouraging the development of new ideas and information serves society as a whole.

The Internet and other digital technologies have made it easier than ever to share, use, copy, excerpt, quote from, modify, repurpose and distribute language, still and moving images, and sounds that are the property -- the "intellectual property" -- of others. These same innovations have made intellectual property owners keenly aware of the economic value of media content. To protect that value, owners have lobbied for changes in copyright law in their favor and forcefully asserted their rights to restrict, limit, and/or charge high fees for the use of their works. Some even use scare tactics that critics claim may not be entirely legal themselves, misrepresenting users' rights under the law.

As *The Cost of Copyright Confusion for Media Literacy* reveals, these developments have increased confusion and anxiety among many educators. Many educators have incomplete knowledge about copyright law and the doctrine of fair use that is so critical to education. Some cope by simply avoiding the topic. Others choose to “close the door” of the classroom and do what they want, believing they may be breaking the law in the service of education. Yet others believe they have learned “rules” about copyright that they apply -- particularly to student-produced work-- in an overly rigid manner. All of these practices have a negative effect: they reduce the quality of teaching and learning, limit the spread of innovative instructional practices, and perpetuate misunderstandings about copyright among students.

Numerous “educational use guidelines” have contributed to the confusion about copyright. There are a number of these guidelines, including the Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions, the Fair Use Guidelines for Educational Multimedia, and the Guidelines for the Educational Use of Music. Many library/media specialists and educational technology professionals are familiar with these. These guidelines resulted from negotiated agreements between lawyers representing media companies and lawyers representing educational groups. Some of these guidelines specify precise examples of fair use, such as the “10% rule,” the “45-day rule” and other such specifics. While meant to clarify how fair use applies to the work of educators, these guidelines have done more harm than good. As legal scholar Kenneth Crews points out, the documents created by these negotiated agreements give them “the appearance of positive law. These qualities are merely illusory, and consequently the guidelines have had a seriously detrimental effect. They interfere with an actual understanding of the law and erode confidence in the law as created by Congress and the courts.”

In contrast to the approach used to generate the educational use guidelines, the *Code of Best Practices for Fair Use in Media Literacy Education* identifies five principles that represent the media literacy education community’s own *current consensus* about acceptable practices for the fair use of copyrighted materials. This code of best practices was created by convening 10 meetings with more than 150 members of leading educational associations and other educators across the United States. Participants discussed hypothetical scenarios involving the uses of copyrighted materials in media literacy education to identify the principles and limitations articulated in the code. The process was coordinated by Profs. Renee Hobbs (Media Education Lab, Temple University), Peter Jaszi (Program on Information Justice and Intellectual Property, Washington College of Law, American University) and Patricia Aufderheide (Center for Social Media, American University). The code was reviewed by a committee of legal scholars and lawyers expert in copyright and fair use.

Copyright law enables the owner to control access to the work created and provides strong penalties for infringement of owners’ rights. But the law also includes the doctrine of fair use, which exempts some uses of copyright material from the owners' control. This doctrine, part of the Copyright Act of 1976, states that people have a right to use copyrighted materials freely without payment or permission, for purposes such as “criticism, comment, news reporting, teaching, scholarship, and research.” In essence, fair use gives people a right to use copyrighted material when the cost to the copyright holder is less than the social benefit of the use of the copyrighted work.

Individuals must assess the specific context and situation of the use of a copyrighted work to determine if fair use applies. Hard-and-fast rules are inappropriate since fair use requires that people use reasoning and judgment. Courts realize that educators and students use copyrighted materials for scholarship, teaching and learning. In recent years, courts have recognized that when a user of copyrighted materials adds value to, or repurposes

materials for a use different from that for which it was originally intended, it will likely be considered fair use. Fair use embraces the modifying of existing media content, placing it in new context. Such transformative use is at the heart of media literacy education, where teachers and students use mass media, popular culture and digital media to develop critical thinking and communication skills.

Integrating Copyright and Fair Use into Instruction

Five lessons in this guide enable educators to incorporate the topic of copyright and fair use into existing instruction, following the media literacy learning spiral of ACCESS, ANALYZE, EVALUATE, CREATE and ACT. Each lesson uses the following structure to promote the development of students' critical thinking and communication skills.

Activate prior knowledge. Each lesson begins with an opportunity to engage students by tapping into what they already know and think. In some lessons, a "Schoolhouse Rock style" educational song helps stimulates student interest and motivation.

Gain knowledge and analyze information. A reading, research or information gathering activity enables students to gain access to new knowledge. Specific instructional strategies are offered to help educators support learners with different levels of knowledge and skills and check for understanding. To strengthen analysis and evaluation skills, students engage in discussion that produces divergent thinking and critical analysis.

Compose, share and act. Each lesson includes an opportunity for students to produce material themselves, creating something new that allows them to reflect upon and demonstrate what they have learned. Some activities use social media or Web 2.0 resources, available free online, while others are based on more traditional literacy practices. Each lesson includes key learning outcomes that can help educators assess and evaluate student learning in situational context.

SECTION 1: UNDERSTANDING COPYRIGHT

Learning Objectives

Students will understand:

- that copyright law is designed to promote creativity and the growth of knowledge by considering both the rights of owners and the rights of users
- how fair use ensures that copyright law does not limit First Amendment rights
- the ways in which copyright law has expanded to protect owners over a period of time
- that the flexibility of fair use enables it to be relevant and useful to many different kinds of creative communities

Materials

Song: "What's Copyright?" Available online at: www.mediaeducationlab.com/

Worksheet: W1: What's Copyright?, p. 11

Copies of the reading selection

Readings

Reading (A): Understanding Copyright, p. 8 -10

This reading provides basic concepts about the relationship between copyright, fair use and free speech.

Reading (B): Loren, L.P. (2008). The purpose of copyright. *Open Spaces Quarterly*, 2(1). Available at: <http://www.open-spaces.com/article-v2n1-loren.php>

The core purpose of copyright is to promote creativity and the spread of knowledge.

Reading (C): Tushnet, R. (2004, December). Copy this essay: How fair use doctrine harms free speech and how copying serves it. *Yale Law Journal*, 14(3), 535-589. Available at: http://www.yalelawjournal.org/114/3/535_rebecca_tushnet.html

Copying serves valuable First Amendment purposes, both for audiences and for speakers, for whom copying often serves interests in self-expression, persuasion, and participation.

Lesson Plan: Understanding Copyright

Engage interest. Find out what students already know about copyright. Ask students to share with partners their answers to the question, "What is the purpose of copyright?"

Listen and discuss. Listen to the "What's Copyright?" song. You can find a lyric sheet online if needed. Ask students to share their thoughts about copyright with their partners. Then replay the song. Ask students how their perception of copyright has changed.

Check reading comprehension. After reading the selected article, invite students to: (1) explain the concept of fair use in their own words; (2) explain why the article claims that without fair use, copyright law would limit people's First Amendment rights.

Critical thinking. In responding to the reading, encourage students to: (1) offer inferences about why copyright law has expanded in recent years; and (2) explain why computer industry leaders believe that a robust interpretation of fair use will create new business opportunities.

RESEARCH AND WRITING ACTIVITY: After listening to the song and discussing the reading, have students work with a partner to complete worksheet **W1: Understanding Copyright**. Then invite each student to select one of the questions s/he generated and explore answers using library and online search strategies. For homework, students share what they learned by writing a short paragraph for a wiki or blog or composing an email to the instructor.

PRODUCTION ACTIVITY. Encourage students to download the "What's Copyright?" song and insert their own examples of their creative uses of copyrighted materials. Students can create short video clips to create a version of the song with their own relevant visual examples.

UNDERSTANDING COPYRIGHT

To understand copyright, it's important to first understand the First Amendment. It protects five freedoms, including the freedom to think what you want to think, the right to tell others what you think (freedom of speech and of the press), the right to gather together with others to discuss what you think with each other, and the right to ask the government to change. The First Amendment is designed to promote democracy, further the search for truth, and enable self-expression. The news, history, science, and the arts thus all receive protection under the First Amendment. So do movies, music, videogames and other forms of popular culture -- because these materials affect our political attitudes and shape how we think, feel and act.

The Purpose of Copyright

Copyright law builds upon the values of the First Amendment by emphasizing that sharing ideas and information leads to new knowledge and innovation. These ideas about copyright were built into the U.S. Constitution in 1787, which reads: "The Congress shall have Power . . . 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." Policy analysts and legal historians identify several principles that support this approach to intellectual property rights:

- Science and arts -- the production of new knowledge and cultural experience -- are important for society.
- The purpose of copyright is to promote the creation and use of knowledge.
- Congress has the power to grant authors, artists, scientists, and inventors exclusive property rights for the fruits of their labor.
- In order to maximize the social value of new knowledge and cultural works, the duration of intellectual property rights should be limited.
- Making it possible for authors, artists, and inventors to benefit from their intellectual property provides a motivation to produce knowledge for the good of society.
- The rights of authors, artists, scientists, and inventors are granted by Congress and are not intrinsic or natural.

Copyright law protects works of "intellectual property" -- creative expressions of ideas in fixed symbolic form. (Patent law protects the expression of novel ideas in the form of objects or processes.) Books, movies, music, paintings, photographs, websites, images, videogames, performances, architecture, and software are among the many types of creative work protected by copyright.

Though we use the word "copyright" in singular form, it actually involves a bundle of several different rights. Owners have the exclusive right to do and to authorize others to do these things:

- reproduce the work;
- distribute copies of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- to perform the work publicly;
- to display the work publicly;
- to create derivative works; that is, to create new works based closely on the original, such as a translation of a book from one language into another, or making a book into a movie.

Copyright initially lasted 14 years, plus 14 additional years if the copyright owner renewed the registration. But the duration of owners' rights has lengthened over the years. A work created today by an individual author will be protected by copyright for 70 years after the author's death. Ownership control is even longer if the copyright is for a work commissioned by a corporation -- either 95 years from the year of its first publication, or 120 years from the year of its creation.

As a result, a successful copyright infringement action gives the copyright owner the right to stop someone from printing, performing, sharing or otherwise disseminating the work. Infringing works can be seized and destroyed. Legal scholar Rebecca Tushnet has pointed out that a successful copyright lawsuit can lead to "book burning mandated by law."

The Fair Use Doctrine

Fortunately copyright law has an important exemption, a way to ensure that copyright law does not become a vehicle for preventing uses of copyrighted material in the service of society just because an owner wants to maximize profit. Interestingly, today we recognize that while fair use may diminish the profits of a copyright holder to some degree, doing so can simultaneously provide a stimulus to other profitable economic activity and support for the information economy. In the words of the president of the Computer & Communication Industry Association (CCIA), an advocacy organization that represents the computer, Internet, information technology, and telecommunications industries, "As the United States economy becomes increasingly knowledge-based, the concept of fair use can no longer be discussed and legislated in the abstract. It is the very foundation of the digital age and a cornerstone of our economy."

Fair use helps ensure that people have access to the information they need to fully participate as citizens. From this perspective, every citizen needs to understand fair use. The fair use doctrine allows users to make use of copyrighted works without permission or payment when the benefit to society outweighs the cost to the copyright holder.

The fair use doctrine, which is found in Section 107 of the Copyright Act of 1976, states that the use of copyrighted material "for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research" is not an infringement. Courts consider these factors in determining fair use: the purpose of the use, the nature of the copyrighted work, the amount and substantiality of the portion used in relation to the original work; and the effect of the use on the market for the original.

In recent years, legal scholars have found that courts return again and again to two questions in deciding if a particular use of a copyrighted work is a fair use:

- Did the unlicensed use "transform" the material taken from the copyrighted work by using it for a different purpose than that of the original, or did it just repeat the work for the same intent and value as the original?
- Was the material taken appropriate in kind and amount, considering the nature of the copyrighted work and of the use?

Applying the doctrine of fair use requires a reasoning process, not a list of hard-and-fast rules. It requires users to consider the *context and situation* of each use of copyrighted works. Thus, an extremely important element of the context and situation is the community of practice within which these uses occur.

Fair Use in Creative and Professional Communities of Practice

Each professional and creative community applies fair use uniquely, depending on how copyrighted material is used for its own purposes. For example, art historians use copyrighted materials somewhat differently than either artists or historians. Community consensus on what is considered to be fair use can provide guidance to people within the community who need to use copyrighted materials freely in order to produce their own work. It can also be valuable to courts that must evaluate whether a claim of alleged infringement is valid or not.

Documentary filmmakers – as a community-- asserted the need to be able to quote from other films and videos in making their own films. Until recently, a culture of fear had led documentarians to avoid a wide range of subjects including political and social commentary, musical subjects and popular culture. Many documentarians—as well as lawyers, insurers, distributors and broadcasters with whom they interacted to release their works—felt that every single use of a copyrighted work needed to be paid for through getting permissions and clearance rights. Many people in this creative community did not understand how fair use applied to their work.

When filmmakers developed the Documentary Filmmakers’ Statement of Best Practices in Fair Use, they addressed these problems. They identified four principles concerning their most typical uses of copyrighted materials as falling within the doctrine of fair use: using copyrighted materials for media criticism; quoting copyrighted works of popular culture to illustrate an argument or point; capturing copyrighted media content in the process of filming something else; and using copyrighted material in a historical sequence.

When the Statement of Best Practices was released, filmmaker Byron Hurt, creator of *Beyond Beats and Rhymes*, a film that explores the representation of gender in hip hop music, employed the Statement in order to release his film at the Sundance Film Festival. This film used many examples from music videos to make its point. The film never could have been made if the filmmaker needed to get permission from copyright holders. Clearly, the Statement of Best Practices has had a beneficial effect for both filmmakers and the general public.

Name: _____

Class: _____

W1. Understanding Copyright

Instructions: What did you learn about copyright after listening and reading? What questions do you have now about copyright?

What We Learned about Copyright	Questions we Have about Copyright

SECTION 2: THE COST OF COPYRIGHT CONFUSION

Learning Objectives

Students will understand:

- how lack of knowledge about copyright and fair use negatively affect teaching and learning
- why the many different “educational use guidelines” do not have the force of law and how they interfere with educators’ genuine understanding of fair use

Materials

Video: The Cost of Copyright Confusion, available at www.mediaeducationlab.com

Document: The Cost of Copyright Confusion, available at www.mediaeducationlab.com

Copies of the reading selection

Readings

Reading (A): Educational Use Guidelines FAQ, pages 15 -16

A summary and critique of the educational use guidelines in relation to the doctrine of fair use

Reading (B): The Cost of Copyright Confusion

This report explains the current state of understanding about copyright and fair use among educators – and the misinformation sometimes passed on to students.

Reading (C): Crews, K.D. (2001). The law of fair use and the illusion of fair-use guidelines. *The Ohio State Law Journal*, 62, 602-700. Available at: <http://moritzlaw.osu.edu/lawjournal/issues/volume62/number2/crews.pdf>

Educational use guidelines – which are negotiated agreements between media companies and educational groups-- have come to be misinterpreted as law, creating problems for educators and students alike.

Reading (C): McGeeveran, W. & Fisher, W.W. (2006, August). The digital learning challenge: Obstacles to educational uses of copyrighted material in the digital age. Berkman Center Research Publication No. 2006-09. Available at: <http://cyber.law.harvard.edu/media/files/copyrightandeducation.html>

This white paper provides a detailed overview of the challenges of faced by digital learning and education which relate to copyright and other legal issues.

Lesson Plan

Engage interest. Show the video, “The Cost of Copyright Confusion.” Discuss: How did all this confusion get started? What factors contribute to the confusion?

Explore online. One source of confusion is the many different interpretations of copyright and fair use that are available online. Demonstrate how easy it is to find many different (and sometimes conflicting) educational use guidelines by conducting an Internet search on the term “copyright.” Some sites to present may include:

Baruch College (uses a subway map): <http://www.baruch.cuny.edu/tutorials/copyright/>

Hall Davidson (uses a chart): <http://www.halldavidson.net/chartshort.html>

Provide context. Explain that each of these websites is an interpretation of fair use that has been developed by the authors of the site. They are confusing—and they are not the law. They are based on guidelines that were private negotiations between media companies and educational groups. They were intended to provide a “safe harbor” to illustrate obviously clear examples of fair use. But in recent years, they have been interpreted as the “ceiling” – the maximum amount of use required to claim fair use under the law.

Read and discuss. Read “Educational Use Guidelines FAQ” and “The Cost of Copyright Confusion.” To assess students’ reading comprehension, invite students to (1) explain the advantages and disadvantages of the educational use guidelines. Students should be able to explain (2) why the educational use guidelines have contributed to copyright confusion.

Critical thinking. Ask students to (1) offer inferences about why business leaders sought to have specific, detailed rules as presented in various educational use guidelines; and (2) why some educational leaders sought to have specific, detailed rules.

MEDIA PRODUCTION/ TECHNOLOGY INTEGRATION ACTIVITY: Students watch short videos about how copyright can interfere with creativity and the spread of knowledge and contribute their comments on the videos using Voice Thread, a social media website for conversations about visual media.

Preview how to use VoiceThread. First, demonstrate how to use Voice Thread by playing the One-Minute demonstration available online at: <http://voicethread.com/#home.b409.i848804>

Demonstrate the process of making a comment. Then, watch a bit of the documentary, “Eyes on the Fair Use Prize,” available at <http://voicethread.com/#q+eyes+on+the+fair+use+prize.b236551.i1230183>

Demonstrate how to make a text, voice (and video) comment. You can use the microphone on your computer or use a phone to “call-in” a comment.

Students comment. Encourage students to make two comments on each video: one **fact-based comment** in which they can share what they are learning about copyright and fair use, and one **opinion-based comment** in which they can share their feelings, personal experiences and reflections.

Reflect and share. When students have all completed their work, encourage them to review the comments made by their peers and demonstrate the project to their family members and friends. As a new form of social media, Voice Thread users re-purpose images as a stimulus to community conversation. Point out that people everywhere need to gain “copyright clarity” to understand their rights as creators and users of copyrighted materials in order to fully exercise their rights under the law.

EDUCATIONAL USE GUIDELINES FAQ

What is the theory behind fair use? The framers of the U.S. Constitution clearly intended that the law of copyright -- including fair use -- would be tailored to serve the advancement of knowledge. Fair use relies on four factors: the purpose of the use; the nature of the use; the amount of the use; and the effect of the use on the potential market.

What are the strengths and weaknesses of fair use as it is currently written? One important strength is that the law is flexible to meet changing and unpredictable needs. A weakness for many users is that it is also vague and does not give exact answers. Educators might find it difficult to apply the four factors in their everyday work.

What are the educational use guidelines? Several formal guidelines attempt to define the scope of fair use for education, research, and library purposes. These guidelines are the results of private negotiations—they are not law.

Why were they developed? Congress did not wish to include further details in the law but it urged stakeholders to negotiate their concerns and to reach agreement about the meaning of the law. In practice, many educators were uncomfortable with the ambiguity of the four factors, so representatives of educators, librarians, authors, and publishers met in voluntary negotiations to create the educational guidelines.

What are the strengths of the guidelines? The guidelines can serve a purpose for colleges universities and libraries by providing them with specific rules and preventing them from having to grapple with the fair use doctrine. The guidelines are also compelling to the courts, and they sometimes turn to them *after they have already considered the four factors of fair use*. Everyone should clearly understand that in no way are the guidelines “law.” They are at best an agreed minimum measure of fair use.

What are the weaknesses of the guidelines? The guidelines often miss the point about fair use. They seldom relate to the factors that really are part of the law, and they tend to eliminate the flexibility that makes fair use meaningful at a time when teaching, technology, and the law are changing. The guidelines also advance a minimalistic view of fair use, and they certainly are no protection from liability. Oddly, the guidelines are also sometimes more complicated to apply than is the actual law of fair use.

Do the educational use guidelines have a legal status? No, they are not the law and in some cases they may even contradict the law. The guidelines may be viewed as private compacts that have some binding quality on the named supporters and not on all educators or other vast groups.

What is the relationship between fair use and the guidelines? The law is actually less complex than the guidelines. The law is flexible, whereas the guidelines are rigid. The guidelines do not even address the four factors in the law, instead they make fair use depend on brevity, spontaneity, and cumulative effect. The guidelines seek to quantify a law that Congress took pains to keep flexible.

How do the guidelines affect the status of fair use? The guidelines do not displace the four factors of fair use. However, many people find the guidelines confusing, as they interfere with an actual understanding of the law and erode confidence in the law as created by Congress and the courts.

Do the guidelines offer protection from copyright infringement? No, the guidelines do not even offer a “safe harbor” – they do not have the power of law.

Sources:

Crews, K.D. (2001). The law of fair use and the illusion of fair-use guidelines, *Ohio State Law Journal*, 62, 599-702.
<http://moritzlaw.osu.edu/lawjournal/issues/volume62/number2/crews.pdf>

Crews, K.D. Fair Use for Higher Education: Are Guidelines the Answer? *Academe* 83 (November-December 1997): 38-40.

SECTION 3: DEFINING AND APPLYING FAIR USE

Learning Objectives

Students will understand:

- that fair use requires reasoning and interpretation of context and situational factors
- that the reasoning, interpretation and divergent thinking required to make a fair use analysis parallels the pedagogy involved in strengthening critical thinking and analysis skills through media literacy education
- how the concepts of copyright and fair use apply to the practice of teaching and learning

Materials

Song: "Users' Rights, Section 107," available at www.mediaeducationlab.com

Copies of W2: Transforming Magazine Images, p. 22

Copies of the selected readings

Readings

Reading (A): Bill Graham Archives v. Dorling Kindersley FAQ, pages 20 - 21

A summary of an important fair use case and its implications for educators

Reading (B): Rife, M.C. (2006). Remix as "fair use": Grateful Dead posters' re-publication held to be a transformative, fair use. *National Council of Teachers of English*. Available at: <http://www.ncte.org/cccc/gov/committees/ip/127373.htm>

A detailed exploration of a pivotal fair use case and its implications for composition educators.

Reading (C): Band, J. (2007, December). Summary of Fair Use Cases in Education. *Association of Research Libraries*. Available at: <http://www.arl.org/bm~doc/educationalfairusetoday.pdf>

A review of the most important educational fair use cases, prepared as a resource for college librarians.

Lesson Plan

Engage interest. Play the song, “Users’ Rights, Section 107.” You can download and use the lyric sheet if needed. Discuss: What are some examples of creative works that rely on the concept of transformativeness? Students can share their experiences of how transformativeness is found in television programs, movies, on You Tube, in music, and in the fine and popular arts.

Read and discuss. Read the *Bill Graham Archives v. Dorling Kindersley FAQ* or “Remix as ‘Fair Use:’ Grateful Dead Posters’ Re-publication Held to be a Transformative, Fair Use” by Martine Courant Rife. To strengthen reading comprehension, invite students to work with a partner to (1) explain the facts of the case as a story, using narrative concepts such as protagonist, antagonist, setting, conflict, rising action, climax, resolution, and moral or lesson.

To develop an understanding of what constitutes transformative use, (2) ask students to explain in their own words how the publisher used images from the Bill Graham Archives to make them transformative and therefore a fair use of copyrighted material.

Critical thinking. Ask students to (1) generate examples of uses of a copyrighted work that are not transformative, i.e., that do not re-purpose or add value. Review the concept of “derivative use” from Lesson 1. Encourage students (2) to explain the difference between derivative use and transformative use.

As students offer examples, engage the class in discussion of these examples. Point out that different people may employ different criteria in making a judgment about the meaning of the concepts of “re-purpose” and “add value.” Fair use is a concept that requires interpretation, and reasonable people will sometimes disagree about what constitutes a fair use. The goal is to use reasoning and analysis in reflecting on both the rights of the copyright owner and the rights of the user.

PRODUCTION ACTIVITY. Students create posters with parts of a magazine, enacting the process of transformativeness by selecting copyrighted materials and adding value or repurposing them and reflecting on the context, purpose and audience of the original copyrighted material and the new creative work.

Before class: Gather and have available magazines, markers, scissors, glue sticks, paper. Make copies of W2: **Transforming Magazine Images**.

View and discuss. View preview clips of one of the Media Education Foundations’ videos, such as: [Breaking our Silence](#); [Generation M](#) or [Deadly Persuasion](#), available on the Media Education Foundation’s website (<http://www.mediaed.org/>) or through YouTube. Select one clip and play it at least twice. Ask: What copyrighted materials are used? Are these uses of copyrighted work transformative? Some uses of copyrighted materials may be transformative, while others may not. Invite the class to consider how **context**, **purpose**, and **audience** are key elements to consider in assessing whether a work is transformative.

Partners create a poster. Working with a partner, students get a copy of W2: **Transforming Magazine Images**, and art supplies. Explain that the goal is to transform some part of the magazine by creating a new message that repurposes or adds value to the original copyrighted work. Students are free to use any part of the magazines, plus markers, paper, etc. While they transform their images, students should consider the following questions.

- What is the context of the original image? What is the context of the new image?
- Who is the audience for the original image? Who is the audience for the new image?
- What is the purpose of the original image? What is the purpose of the new image?

Have each team share their new image with the class and write out full sentences to answer the questions above. As students share their new works, ask: Is this new creative work a transformative use? Why or why not? Is this new work a derivative work? Why or why not? What value is added in the new creative work? *Discuss:* How does the meaning of transformativeness change depending on whether you use words on the page, images on the page, design elements, or other parts of the magazine?

Discuss: What forms of citation are appropriate for this activity? Is it important to provide a citation for this re-use of copyrighted work? Why or why not? *Discuss:* Would you feel comfortable sharing your new creation online? Why or why not?

WRITING ASSIGNMENT: Students select two YouTube videos and compose a comparison-contrast essay. Each student selects one example of a video that is likely to be considered a transformative use of copyrighted materials and one that is not transformative. In the essay, students describe each video and justify their selections, applying what they have learned about copyright and fair use.

BILL GRAHAM ARCHIVES V. DORLING KINDERSLEY FAQ

What is the background of this case?

In the final ruling on *Bill Graham Archives v. Dorling Kindersley*, on May 9, 2006, the US Court of Appeals for the Second Circuit upheld the decision of a lower court, finding the use of seven images of Grateful Dead posters and tickets published in an illustrated biography and *obtained without permission* from the copyright holder to be a fair use.

What happened?

In this case, a publisher, Dorling Kindersley, used seven images of Grateful Dead concert posters and tickets without permission in the book, *Grateful Dead: The Illustrated Trip* (2003). The seven pictures were among over 2000 images that were incorporated into collages and mixed with graphic art, commentary and other written text along an illustrated historical timeline of the band's activities. Before the book was published, Dorling Kindersley attempted to negotiate permissions for the images with the copyright holder, Bill Graham Archives. However, Dorling Kindersley considered Bill Graham Archives' fees to be unreasonably high, and licensing agreements were never reached. Instead, Dorling Kindersley decided to publish the images *without permission* under the protection of the fair use doctrine. After the book was published, Bill Graham Archives sued for copyright infringement. The Second Circuit Court, like the lower court before them, ruled that the images of Grateful Dead posters and tickets, reproduced in reduced size, surrounded by new content, and reprinted in a biographical context was, in fact, a fair use.

What makes this case a fair use?

In fair use cases, courts usually consider four factors: (1) the purpose and character of the use; (2) the nature of the copyright work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work. The Second Circuit court found that the purpose and character of the use of the Grateful Dead images was fair because the use was *transformative*: the images were used in a collage along a timeline for historical purposes rather than for their original intent, which was concert promotion. Additionally, regarding the third factor, amount and substantiality of portion used, the court noted that even though entire images were used, their reduced size was consistent with transformative use. The court also found that reprinting concert tickets and posters in this type of historical biography did not infringe on Bill Graham Archives' market. Therefore, even though Dorling Kindersley used entire images without permission – and for a commercial project – these materials were used in an entirely different context for an entirely different purpose, which the court considered to be a fair use.

What are the implications of this case for educators?

Teachers and educators can use this case to understand that using entire images is not necessarily prohibited when images are used *transformatively*. In this case, the use was considered *transformative* because the images were reduced in size and remixed with graphic art, additional text, and other images. Educators should also note that the opinion in this case also supports the view that permission is not always needed, *even when licensing is available*. The opinion overall supports using other's work in compositions or remixes, especially those that synthesize many works and/or include new material from the author.

Source:

Rife, M.C. (2006). Remix as "Fair Use": Grateful Dead posters' re-publication held to be a transformative, fair use. *National Council of Teachers of English*. Available at: <http://www.ncte.org/cccc/gov/committees/ip/127373.htm>

NAME: _____

CLASS: _____

W2: Transforming Magazine Images

Purpose of Original Work	Purpose of New Work
Context of Original Work	Context of New Work
Audience for Original Work	Audience for New Work

SECTION 4: FIVE PRINCIPLES OF THE CODE OF BEST PRACTICES

Learning Objectives

Students will understand:

- that the Code of Best Practices offers a model for educators and students to assert the value of fair use in education
- how to use the Code of Best Practices to strengthen reasoning skills and increase confidence about the use of copyrighted materials in the development of critical thinking and communication skills
- how to use case studies, videos and other tools to guide the process of teaching and learning about fair use and applying the Code of Best Practices to specific situations

Materials

Video: Overview of the Code of Best Practices in Fair Use for Media Literacy Education

Case Study videos (all videos are available at www.mediaeducationlab.com/)

- *New York City Elementary School*
- *Upper Merion High School*
- *Ithaca College*

Copies of the Code of Best Practices in Fair Use for Media Literacy Education

Copies of W3: Hypothetical Scenarios, pages 26-27

Readings

Reading (A), (B) (C): *Code of Best Practices in Fair Use for Media Literacy Education*, available at www.mediaeducationlab.com

The Code of Best Practices in Fair Use for Media Literacy Education asserts educators' and learners' rights to use copyrighted materials for teaching and learning. The Code maintains that:

Educators can, under some circumstances:

1. Make copies of newspaper articles, TV shows, and other copyrighted works, and use them and keep them for educational use.
2. Create curriculum materials and scholarship with copyrighted materials embedded.
3. Share, sell, and distribute curriculum materials with copyrighted materials embedded.

Learners can, under some circumstances:

4. Use copyrighted works in creating new material.
5. Distribute their works digitally if they meet the transformativeness standard

Lesson Plan

Engage interest. Show the video, “Overview” and invite students to make connections between what they have learned in previous lessons and ideas from the video.

Read and discuss. Read the *Code of Best Practices in Fair Use for Media Literacy Education*. To promote reading comprehension, invite students to work with a partner to (1) explain the rationale provided for why educators can benefit from the Code. Make sure students can (2) explain why each of the five principles has a description, a justification and a set of limitations to consider.

View and discuss video case studies. Select one of the case study videos to view and discuss. To develop an understanding of the assertions, conditions and limitations of the five principles described in the Code, use the video case study questions below to stimulate discussion:

Video Case Study: NYC Elementary School

1. Do you agree with the teacher that the use of music in these PSAs was a transformative use? Why or why not?
2. Why do you think these students chose to use copyrighted works in their videos? Why didn't they use royalty-free music? Why do you think they chose a picture of a Cadillac instead of a generic car image with no logo?
3. Do you think the students should have given credit to the original creators of the images they used in their videos? The students used Google Images -- how would they find out who the original creator is?
4. Which of the five principles are relevant in this case? What evidence supports your answer?

Video Case Study: Upper Merion High School

1. If you were the photographer who posted these Flickr images, how would you feel about students using them in the Virtual Zoo?
2. Why do you think the educators in this case study felt it was important to post these images online instead of sharing them just within their class? Do you think they should have posted it to a password-protected site instead? Why or why not?
3. In this video, the teachers instructed students to do a Creative Commons search within Flickr. Why do you think they included this step? Why didn't they encourage students to use Google Images to find images? When would it be OK to use Google images to search for materials?
4. Which of the five principles are relevant in this case? What evidence supports your answer?

Video Case Study: Ithaca College Project Look Sharp

1. Why do you think *Newsweek* told Project Look Sharp to get permission from the photographers and the subjects of the photos?
2. Do you think it makes a difference whether or not Project Look Sharp makes money from selling their curriculum materials? Why or why not?
3. In this video, the copyrighted images were used for purposes of critique and analysis. Would it make a difference to you if the images were used for purposes of illustration? Why or why not?
4. Which of the five principles are relevant in this case? What evidence supports your answer?

As you discuss these cases, encourage students to review the conditions and limitations of the Code to understand the considerations which limit fair use.

Discuss hypothetical cases. Break students into six groups and pass out copies of **W3: Hypothetical Scenarios**.

Encourage students to discuss the cases in ways that include diverse points of view.

You might want to give students in each group a specific role to play, including the rights owner, the student, the teacher, or other stakeholders.

Point out that different people may employ different criteria in making a judgment about the meaning of the concepts of “re-purpose” and “add value.” Fair use is an interpretation and reasonable people will sometimes disagree about what constitutes a fair use. The goal is to use reasoning and analysis in reflecting on both the rights of the copyright owner and the rights of the user.

WRITING ACTIVITY. Students write an email offering advice to the teacher described in each case, explaining why their particular use described is (or is not) a fair use. Encourage students to use reasoning that reflects their understanding of fair use and a consideration of the principles and limitations found in the Code of Best Practices.

W3: HYPOTHETICAL SCENARIOS

Instructions: After learning about copyright and fair use, discuss the cases below. Remember that there are no “right” or “wrong” answers. However, stronger arguments use sound reasoning connected to legal principles and established codes of practice. Use reasoning to develop and share ideas about each of these situations, reflecting on the purpose of copyright, the rights of the copyright holder, and the doctrine of fair use.

1. Instructional Use

Ben Stevens uses a PBS show, *The Merchants of Cool*, in his youth media after-school program, and anticipates doing so in the future. He taped the show off air when it ran three years ago on his local PBS affiliate. His supervisor told him that he must destroy his own copy and use the copy the organization has purchased from the PBS Learner catalog. What’s fair?

Ben also teaches media literacy and multimedia production in a youth media program sponsored by a local non-profit technology center. He likes to introduce students to basic concepts in media economics by reading and discussing short articles downloaded from the online edition of the *Wall Street Journal*, to which he subscribes. He found an article on how Warner Brothers and CBS formed the television network, CW. Students enjoyed reading the article so much that Ben likes to make photocopies and use it with every group of students he teaches, even though it’s been nearly two years since the article first ran in the newspaper. Is photocopying the newspaper article fair and reasonable?

2. Curriculum Development/Materials

Ms. Mary Miller, a media literacy educator, has created lesson plans about analyzing news and journalism that are tied to specific examples from local and national television news. At a media literacy conference, she uses various short video excerpts and a longer 20-minute excerpt from *60 Minutes* and shares her curriculum materials with teachers through the use of PowerPoint slides with embedded video clips, plus a print handout.

Two weeks later, she gets an email from someone who couldn’t attend the event but would like to receive a copy of the materials. She feels comfortable sharing the print handout, but can she send the individual a copy of the PowerPoint slides and digital clips from *60 Minutes*? Can she post them to her personal website to share more generally, even with those who haven’t specifically requested them? What’s fair?

Well-known educator Mr. Smithers has received a copy of Mary Miller’s lesson plans. He incorporates them directly into his widely-adopted reader on media literacy, which is used by teachers throughout the country, without asking permission. Is that fair?

3. Curriculum Development/Materials

Mr. Joseph, a freelance media literacy entrepreneur and educator, has collected hundreds of beer and alcohol commercials and put them on a DVD. He has created lesson plans to accompany the ads, which are available as a separate document. He makes the DVD available for \$199 to schools. He is considering working with a commercial publisher of educational materials to reach a wider audience. They would sell the DVD as a stand-alone (for \$99) or with a book of lesson plans materials (for \$149.99). What’s fair?

4. Student Use of Copyrighted Material: Mrs. Johnson

In Mrs. Johnson's Grade 4 class, students create PowerPoint slides using copyrighted images they gathered through Google to illustrate their reports on countries of the world. Mrs. Johnson likes to upload their completed slides to the school's public website so that parents can see their children's creative work. Another teacher tells her that students must get permission to use images in their own work. What action is fair and reasonable?

Her principal informs Mrs. Johnson that she must take down the Grade 4 Geography slides, even though her colleague, a Grade 8 teacher, has been allowed to post the work of students who created an iMovie video about stereotypes of teenagers in the media. This work weaves together students' spoken-word poetry with various clips from TV shows and movies and images of teen celebrities found online. Does this distinction make sense or not?

5. Student Use of Copyrighted Material: Mr. Squarious

Mr. Squarious has his video production students create a video poem on high school cutters (self-mutilators), and in doing so, his students use samples of popular music they downloaded from iTunes to illustrate the mental state of the subjects. Is this fair? Students have contacted the record company to request permission and received no answer. Should they be able to use the music anyway? Does it matter if their request for permission actually was rejected? Is it appropriate to broadcast the video via the closed circuit TV system in the district? On local public access cable TV? And should the students be able to submit their documentary to local film festivals? They are fairly sure that they were not given permission due to the film's content. Is it fair and reasonable for them to proceed?

6. Student Use of Copyrighted Material: Mr. Joseph

In Stan Joseph's social studies class, a student wants to create a video tribute to John Lennon that focuses on his role in the anti-war movement of the 1960s. The student wants to use images from the Internet and samples of Lennon's music in her project. Is this fair? Now assume that the student has contacted the record company to request permission and received no answer. Should she be able to use the music anyway?

Next semester, this same student wants to create a music video of "Imagine" that uses images of recent news coverage of the war in Iraq intercut with video footage of Vietnam. Is this a fair use? What are the considerations would influence your decision? Another student has created a music video of "Strawberry Fields Forever" that features teens lip-synching and playing air guitar along with footage of a teen couple walking hand-in-hand in a graveyard. Is this a fair use? Why or why not?

Is it appropriate to broadcast any of these videos via the closed circuit TV system in the district? On local public access cable TV? Should students be advised to (or not to) place their work on You Tube? Should the students be able to submit their programs to a local film festival? Why or why not?

SECTION 5: ADVOCACY

Learning Objectives

Students will understand:

- that ideas about copyright are in transition as a result of changes in communication technologies
- how the “best practices” model enables creative communities to develop a robust interpretation of fair use that is responsive to their actual practices and uses of copyrighted materials

Materials

Copies of the readings

Readings

Reading (A): The Future of Intellectual Property: Three Views, pages 29 - 31

Read about the differences between the Creative Commons approach, the best practices approach, and the commons-based economic models of understanding intellectual property.

Reading (B) & (C): Madison, M.J. (2005). Fair use, social practices, and the future of copyright reform. *Cardozo Arts & Entertainment Law Journal*, 23(2), 391-418. Available at: http://works.bepress.com/michael_madison/1

Madison re-imagines copyright's fair use doctrine with a social practices approach, arguing that the approach should be recognized in the text of the statute as well as in judicial applications of fair use.

Lesson Plan

Read and discuss. To promote reading comprehension, invite students to work with a partner to (1) explain the similarities and differences between the ideas of Larry Lessig, Pat Auhderheide and Peter Jaszi, and Yochai Benkler. Students can make a chart of key similarities and differences.

Critical thinking. What are the strengths and limitations of each of the three perspectives offered in the reading? Have students work with a partner or small group to discuss the question: what are some possible short-term and long term consequences to these new approaches to the future of intellectual property?

PRESENTATION ACTIVITY. Working with a partner, develop a 5-minute speech that explains what you’ve learned about copyright. Integrate at least one copyrighted work into your presentation in a way that demonstrates your understanding of fair use.

WRITING ACTIVITY. Write a position paper that describes and defines your own beliefs about (1) your expectations and beliefs about your rights as a copyright owner, someone who creates intellectual property and (2) your expectations and beliefs about your rights as a user of other people’s copyrighted materials. Consider answering these questions: As an owner, what ethical obligations do you have to users? As a user, what ethical obligations do you have to owners?

THE FUTURE OF INTELLECTUAL PROPERTY: THREE VIEWS

Rapid cultural changes resulting from widespread access to the Internet and other information technologies are opening up space for a vigorous discussion about the role of copyright and fair use in contemporary society. Much creative work -- with video, software, images, language and multimedia -- is now being developed by people who are making and sharing materials on the Internet for free. At the same time, both large media companies and independent artists who are trying to make a living from their creative work are asserting their rights to control information and profit from it. What are the implications for the future of copyright? Consider the perspectives of scholars who have articulated three different approaches to the future of intellectual property

A New Model of Licensing: Some Rights Reserved

Larry Lessig is a Professor of Law at Stanford Law School who spearheaded the development of a new model of licensing creative works called Creative Commons. Creative Commons promotes itself as a “best-of-both-worlds way for creators to protect their works while encouraging certain uses of them.” The Creative Commons model allows creators to specify exactly how they want their work to be used by others -- in other words, they can declare “some rights reserved.”

Creative Commons was developed in order to counteract the problems with the current copyright system -- namely, the fact that large copyright holders were exercising a disproportionate amount of power that made it hard for new content creators to distribute their work. Lessig has publicly condemned the “permission culture” that is evident in the current copyright system. In his book *Free Culture* (published under a Creative Commons license and [available free online](#)), he writes:

The law’s response to the Internet, when tied to changes in the technology of the Internet itself, has massively increased the effective regulation of creativity in America. To build upon or critique the culture around us one must ask, *Oliver Twist*-like, for permission first. Permission is, of course, often granted— but it is not often granted to the critical or the independent. We have built a kind of cultural nobility; those within the noble class live easily; those outside it don’t.

Creative Commons offers alternatives to this permission culture with new types of licenses for creators who wish to share their work. There are searchable indexes for users who are looking to find work that is freely available.

While Lessig and other scholars argue that Creative Commons provides a useful copyright alternative, the model has received some criticism. For example, some critics have argued that the Creative Commons model fuels the same corporate system as copyright. Others claim that Creative Commons is providing unnecessary licenses, and that some of the Creative Commons licensing options are incompatible with one another. Finally, others argue that Creative Commons licenses actually *diminish* users’ rights, by promoting a system of licensing options instead of the doctrine of fair use.

Reclaiming Fair Use with Advocacy from Communities of Practice

Pat Aufderheide, Director of the Center for Social Media at American University in Washington, D.C. is part of a rising scholarly movement to reclaim freedom of expression under copyright law. She writes about intellectual property with the public interest in mind. She believes that the United States is in need of less media conglomeration and fewer rigid, protectionist intellectual property policies such as the Digital Copyright Millennium Act (DMCA), which makes it illegal to break the encryption codes on DVDs for movies and software.

Aufderheide recognizes that copyright law has been reframed in the last several decades in order to benefit large media conglomerates and, as a result, has diminished the quality and quantity of work available in the public domain. According to Aufderheide, corporations have “zealously pursued their ownership rights and worked to intimidate and misinform potential users and the general public about the viability of the doctrine of fair use.”

Aufderheide focuses on intellectual property users and owners asserting their rights under the existing doctrine of fair use. The doctrine of fair use can only be applied by considering the social practices within creative communities. Artists, teachers, architects, TV producers and poets all have social norms, established by the traditions within each professional group, for what’s appropriate in using copyrighted materials. These social norms exist side-by-side with the marketplace model for disseminating information and entertainment. Because copyright law includes a provision for fair use that is flexible and contextual, it can be responsive to the social norms of many different creative communities.

Working with the legal scholar Peter Jaszi at American University Washington College of Law, Aufderheide explored the role of copyright and fair use in an important creative community—the world of documentary filmmakers. As a result of the high costs and complicated process of clearing rights to use copyrighted images, texts, or sounds in their work, documentary filmmakers were avoiding making films that addressed certain topics. They also changed sound, images and locations in order to avoid copyright problems. Each facet of documentary production comes with its own hurdles: images, text, art, graphics, and music are copyrighted by the original creators; soundtracks are copyrighted separately from the film; and promotional materials can be copyrighted and trademarked at both the federal and state levels.

Aufderheide and Jaszi helped filmmakers develop their own clearly articulated consensus about what is fair and reasonable under the law. Media literacy educators, online video producers, film professors and others are using the “best practices” approach, because it enables creative communities to better advocate for their rights as copyright users under the doctrine of fair use.

In this view, copyright law is an effective way to ensure the development of innovative ideas and the spread of knowledge. The rights of the copyright holder must be respected, but the rights of users must be equally respected so that people can use copyrighted material in new and innovative ways. The “best practices” approach can help creative communities advocate for a robust interpretation of fair use, which enables the law to be relevant to the new forms of usage, sharing and distribution that are now part of daily life in a networked information society.

Is Copyright Necessary in a 21st Century Information Economy?

Yochai Benkler, a Yale University legal scholar, writes about the future of copyright in a networked society. He believes that non-proprietary information production (that is, the creation of information that is unencumbered by ownership rights) may be superior to the traditional industrial model that emphasizes exclusive rights. The economic model of information as a commodity might not be the best fit. After all, economists consider information to be a special kind of property. It’s not like other kinds of property. Why? If one person consumes it, there is no effect on whether or not another person can consume it as well.

Benkler believes that the current economic model of classifying intellectual property as a marketable product is inefficient. Right now, the current market system attempts to put a price on these resources and thereby restricts access to them. People who wish to freely share information, culture, and knowledge are being systemically shut down by corporations who have an economic interest in controlling the production and dissemination of information and entertainment. This system attempts to make access to creative works more difficult and expensive for the general public to obtain. This may not be efficient from an economic standpoint or a cultural one.

A non-proprietary production system that encourages the free flow of information, knowledge and culture would intensify the spread of knowledge and innovation. Benkler believes this system would encourage the free flow of information, which would intensify the spread of knowledge and innovation. After all, the cost of creating new material is typically much lower in a production model that relies on sharing information. We have seen a tremendous growth in the number of successful collaborative, peer production projects where creative products are developed outside of the traditional economic system. It does not require a huge financial investment to create on the Web. Open source software, social sharing and other forms of peer production are widespread today.

However, industries with an economic interest in maintaining the proprietary model of information dissemination (for example, Hollywood and the music industry) are working towards more restrictive copyright legislation that could shut down many peer production and information sharing projects. In Benkler's view, overly strict international and American copyright laws are obstacles to the free flow of information. Copyright has become more hostile to users' rights. Fair use has been narrowed, criminal penalties are in effect for many peer-to-peer sharing projects, and many large corporations are attempting to halt information sharing with high licensing fees or legal intimidation.

Benkler wonders whether intellectual property laws, copyrights and patents are still useful ways to regulate information in a world in which information consumers are now users and creators themselves. He notes, "If we pass a law that regulates information production too strictly, allowing its beneficiaries to impose prices that are too high on today's innovators, then we will have not only too little consumption of information today, but also too little production of new information tomorrow."

Sources:

Aufderheide, P. (2007). How Documentary Filmmakers Overcame their Fear of Quoting and Learning to Employ Fair Use: A Tale of Scholarship in Action. *International Journal of Communication 1* (2007). Available online at: http://www.centerforsocialmedia.org/files/pdf/ijoc_article_pat.pdf

Benkler, Y. (2006). *The Wealth of Networks*. New Haven: Yale University Press.

Creative Commons (2008). About Creative Commons. Available online: <http://creativecommons.org/about/>

Lessig, L. (2004). *Free Culture*. New York: Penguin.

RESOURCES FOR LEARNING MORE ABOUT COPYRIGHT AND FAIR USE

Books

Complete Copyright: An Everyday Guide for Librarians by Carrie Russell

This comprehensive guide addresses copyright issues, including fair use, the TEACH Act, the Digital Millennium Copyright Act, Internet-related issues, and advocacy in an accessible yet comprehensive format.

<http://www.alastore.ala.org/>

Copyright Law for Librarians and Educators by Kenneth Crews

This reference book provides an introduction to the fundamentals of current copyright law, helping them educators and librarians keep abreast of changes in copyright law and fair use.

<http://www.alastore.ala.org/>

The Wealth of Networks: How Social Production Transforms Markets and Freedom by Yochai Benkler

Benkler reviews the changing nature of knowledge production in contemporary society and argues that communications networks are reshaping our understanding of the concepts of intellectual property and the economics of information.

<http://www.benkler.org>

Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity by Lawrence Lessig

Lessig argues that copyright in the United States has become unbalanced, favoring the interests of large corporations over the interests of users and would-be creators.

<http://www.free-culture.cc>

Change of State by Sandra Braman

This book provides an examination of the field of information policy, with attention to issues of intellectual property, privacy, and the First Amendment.

<http://mitpress.mit.edu/catalog>

Documentary Video

Freedom of Expression: Resistance & Repression in the Age of Intellectual Property.

This engaging documentary by Kembrew McLeod explores how intellectual property laws are used as tools of censorship, restricting the public's access to information.

<http://www.mediaed.org>

Podcasts

These free podcasts feature Professor Kenneth Crews explaining fair use principles in detail in an engaging way.

<http://www.lifeofalawstudent.com/category/podcasters/prof-kenneth-crews/>

Organizations

Center for Social Media

The Center for Social Media at American University showcases and analyzes strategies to use media as creative tools for public knowledge and action. They have conducted extensive work on fair use for creative communities.

<http://www.centerforsocialmedia.org>

Program on Intellectual Property and Information Justice

The Program on Intellectual Property and Information Justice at American University's Washington College of Law conducts research and advocacy work on intellectual property issues and prepares students to be effective and thoughtful legal practitioners and scholars.

<http://www.wcl.american.edu/piijp/>

Creative Commons

Creative Commons is a non-profit organization that has developed a new licensing model that allows creators to specify which rights they wish to reserve in order to promote sharing of creative work.

<http://creativecommons.org>

Association of Research Libraries

Association of Research Libraries is a nonprofit organization of research libraries at comprehensive, research-intensive institutions. They provide information about Intellectual property and fair use as part of its core mission.

<http://www.arl.org/>

Codes of Best Practices for Creative Communities

Documentary Filmmakers

Documentary filmmakers created, through their professional associations, a clear, easy-to-understand statement of fair and reasonable approaches to fair use.

<http://centerforsocialmedia.org/rock/backgrounddocs/bestpractices.pdf>

Society for Cinema and Media Studies

The Society for Cinema and Media Studies (SCMS) created this Statement of Best Practices for film scholars and professors to clarify some of the issues concerning the use of media for teaching and scholarship.

<http://www.cmstudies.org/documents/SCMSBestPracticesforFairUseinTeaching-Final.pdf>

Online Video

This document is a code of best practices that helps creators, online providers, copyright holders, and others interested in the making of online video interpret the copyright doctrine of fair use.

http://www.centerforsocialmedia.org/files/pdf/online_best_practices_in_fair_use.pdf

Media Literacy Education

The Code of Best Practices in Fair Use for Media Literacy Education clarifies educators' and learners' rights to use copyrighted materials in building students' critical thinking and communications skills.

<http://www.mediaeducationlab.com>