

COPYRIGHT AND PERMISSIONS GUIDELINES

ACADEMIC

CONTENTS

SECTION 1: INTRODUCTION TO PERMISSIONS	4
SECTION 2: WHEN IS PERMISSION REQUIRED?	5
2.1 What is Copyright? US, UK, Canadian, and Indian Copyright Law	5
2.1 Specific Types of Content	6
(a) Photographs, Illustrations, and Other Images	6
(b) Letters	7
(c) Music and Lyrics.....	7
(d) Film, TV, and Radio (including stills, clips and posters, and scripts)	7
(e) Adaptations and Re-draws (including figures, charts, maps, and tables).....	8
(f) Using trademarks, trade names, and logos	8
(g) Works on the Internet	9
(h) Screenshots.....	9
(i) Abstracts	9
(j) The author’s previously published work.....	9
(k) Other works published by OUP.....	10
(l) Poems	10
(m) Unpublished works	10
2.3 Types of Work Not Requiring Permission (Duration of Copyright, Public Domain, and Government Works).....	11
(a) Copyright has expired	11
(b) Copyright owner has dedicated the work to the public domain	12
(c) Types of works not eligible for copyright protection.....	12
(d) US Government Material	13
(e) UK Crown and Parliamentary Material	13
(f) Crown Copyright in Canada	15
(g) Indian Copyright Law: Government Works.....	15
(h) Canadian Copyright Law: Substantial Portion Requirement.....	15
2.4 Creative Commons Licences; GNU Free Documentation Licenses	16

2.5 New Editions	17
2.6 Fair Use of US Copyright Works.....	17
(A) Fair Use: Key Factors.....	17
(b) Fair Use: Tips.....	19
2.7 Fair Dealing (UK)	20
(a) Factors to be Considered	20
(c) When should the Fair Use/ Fair Dealing Analysis Be Undertaken?	21
(d) What is "sufficient" acknowledgement?	21
2.8 Fair Dealing (Canada).....	21
2.9. Fair Dealing & Other Exceptions (India).....	22
SECTION 3: REQUESTING PERMISSION	23
3.1 What Rights to Request – Books.....	23
(a) OUP standard permission request form	23
(b) Information to include in permission requests.....	24
3.2 What Rights to Request – Journals	25
(a) OUP standard permission request form	25
(b) Information to include in permission requests.....	26
3.3. Common Issues.....	26
3.4 Whom to Approach	28
3.5 Fees (Including through the International Association of Science, Technical and Medical Publishers ["STM"])	28
.....	28
SECTION 4: PERMISSIONS ISSUES: WHEN RIGHTSHOLDERS CANNOT BE LOCATED (INCLUDING ORPHAN WORKS)	30
4.1 What is an "Orphan Work"?	30
4.2 What should I do?.....	31
SECTION 5: SOURCING CONTENT	33
5.1 Museums, Archives, and Stock Image Houses.....	33
5.2 Copyright Clearance Centre and RightsLink.....	34
5.3 PictureBank and the Digital Asset Management System.....	34
5.4 STM Publishers' Permissions Guidelines	34
SECTION 6: INTERVIEW AND MODEL RELEASES AND PATIENT CONSENTS	35
APPENDIX 1: OUP PERMISSIONS FORMS	37
APPENDIX 2: TERM OF COPYRIGHT – US	51
APPENDIX 3: TERM OF COPYRIGHT – UK	52
APPENDIX 4: TERM OF COPYRIGHT – CANADA	53
APPENDIX 5: TERM OF COPYRIGHT – INDIA	55
60 years beginning of the calendar year following the year in which the last author dies.....	55
	2

60 years from the beginning of the calendar year next following the year in which is was published . 55

APPENDIX 6: USEFUL WEBSITES; ADDITIONAL READING 56

USEFUL WEBSITES..... 56

ADDITIONAL READING 57

SECTION 1: INTRODUCTION TO PERMISSIONS

THE PURPOSE OF THESE GUIDELINES: These guidelines aim to (1) help OUP authors and editors determine when permission is needed to use third party content and (2) answer common questions that arise during the permissions clearance process. Unfortunately, because copyright law is complex, nuanced, and ever-changing, and fair use/fair dealing questions in particular are highly fact-specific, it is not possible to provide hard-and-fast rules about when permission is and is not required. Accordingly, please remember that these are guidelines only, and each scenario should be carefully scrutinized on its own facts.

WHY MIGHT WE NEED PERMISSION? Many creative works are protected by copyright, and using such material without consent from the rightsholder could be deemed copyright infringement. In addition, OUP respects intellectual property rights and therefore seeks to ensure that permission is acquired when necessary.

DO WE ALWAYS NEED PERMISSION TO USE THIRD PART CONTENT? In certain circumstances permission will not be required. However, because there are few fixed rules dictating when permission is not necessary, this determination will require a careful fact-based analysis in each instance and will, in the case of close calls, require input from OUP's Academic legal team (referred to here as "[the Legal Department](#)").

WHEN IN THE PUBLICATION PROCESS SHOULD WE SEEK PERMISSION? All required permissions must be cleared before the title is handed over to production for books, and before the article is submitted by the author to the Production Editor for journals. Permissions clearance can take up to six months. Plan accordingly. We urge you to address any possible issues regarding permissions at the outset of the project, as permissions issues can delay production (and, for journals, may require us to exclude an article).

WHAT PERMISSIONS SHOULD WE OBTAIN? [Section 3](#) of these guidelines is designed to assist you in determining what permissions you need. Very generally, though, you should aim to obtain the broadest rights possible (i.e., all formats, all editions, all languages, worldwide, for the entire term of copyright) and should always obtain both electronic and print rights. If you are unable to obtain electronic rights to third party content you **must** consult with your OUP contact (authors) or manager (OUP editors) before proceeding. Moreover, use extra care when obtaining permissions governed by Indian law, as failure to specify the duration of the permission will result in the default duration of five years, and failure to specify the territory to which the permission applies will result in the default territory of India only.

FROM WHOM SHOULD WE OBTAIN PERMISSION? [Section 3.4](#) of these guidelines will help you determine whom to contact for permission, and [Section 4](#) is designed to assist you when you have difficulty locating the rightsholder.

HOW DO I KNOW WHAT COUNTRY'S LAW APPLIES TO THE USE OF CERTAIN CONTENT? The relevant law may not be that of the country where you live and work. The general rule is that the relevant copyright laws that apply to claims of misuse are those of the country where the misuse occurs. So, if you use an image in a work published and distributed in the US, US copyright law will likely govern. If you used the same image in a work published and distributed in the UK or Canada, UK or, alternatively, Canadian copyright law would likely govern – regardless of where the image was created. These guidelines cover US, UK, Canadian, and Indian law, as these are the countries where OUP's Academic business mainly publishes. Although many OUP publications are distributed worldwide, we cannot provide guidance on the nuances of copyright law in each and every jurisdiction in these guidelines. However, most of the principles in this guidance document are generally applicable globally; in the case of a specific concern about the application of another country's laws, please consult with your OUP contact (authors) or your manager (OUP editors) and OUP editors, escalate to the Legal Department as appropriate.

WHAT IF I STILL HAVE QUESTIONS? If authors have questions during the clearance process, such questions should be raised in the first instance with your OUP contact. For journals authors this means your Production Editor; for book authors this means your OUP in-house editor. Production Editors should refer all complicated questions to the Permissions Consultant, who will escalate as appropriate. OUP editors should work with their managers in the first instance, who will escalate to the appropriate representative in the Legal Department where necessary.

SECTION 2: WHEN IS PERMISSION REQUIRED?

2.1 WHAT IS COPYRIGHT? US, UK, CANADIAN, AND INDIAN COPYRIGHT LAW

Copyright is a form of legal protection provided by law to the creators of “original works of authorship”—including, for example, literary works, artistic works, photographs, illustrations, music, charts, tables, graphs, film, dramatic works, fonts, architecture, and other creative works. Copyright law gives rightsholders certain exclusive rights in the relevant work for a period of time, including the right to reproduce, distribute, publicly display, and create derivative works based on the copyright-protected work. Unless an exception applies (e.g., fair use, fair dealing, or other exceptions – see [Section 2.6: Fair Use of US Copyright Works](#), [Section 2.7: Fair Dealing \(UK\)](#), [Section 2.8 Fair Dealing \(Canada\)](#)), or [Section 2.9 Fair Dealing & Other Exceptions \(India\)](#)) or the term of copyright has expired (see [Section 2.3.a: Copyright has expired](#)) you must obtain permission from the rightsholder to do any of these things with a work protected by copyright. This protection extends to both published and unpublished works.

Under US, UK, Canadian, and Indian law, the copyright in a work is usually, though not always, held by the author of the work. There are, however, common exceptions: (1) the author may have assigned the copyright in the work to a third party (such as to his/her publisher); or (2) the work may have been created in the course of an author’s employment, in which case the employer will hold the copyright:

- In the US this would include a party commissioning a work and is an example of a work created as a “work for hire.”
- In Canada, an employer owns the copyright unless there is an agreement to the contrary, but employees contributing to a newspaper, magazine, or similar periodical have the right to restrain any re-use of their work outside of such publications, absent an agreement to the contrary.
- Under Indian law, for a literary, dramatic or artistic work made by an author during the course of employment with a newspaper, magazine or similar periodical, where there is a contract under which the author will be contributing to such periodical, the periodical will be deemed the copyright owner *for the purposes of it being published in the periodical* but the author will be deemed the owner in all other respects. Also, under Indian law, for a commissioned photograph, painting, portrait, engraving, or film made in exchange for valuable consideration, unless an agreement (whether written or otherwise) exists to the contrary, the party that commissioned the work shall be deemed the owner of the copyright in such work.

Note that under Indian law, for any public speech, the person delivering the speech shall be deemed the owner of the speech (however, in the case of a speech made on behalf of another, *i.e.* previously written, such other person shall be deemed the rightsholder).

2.1 SPECIFIC TYPES OF CONTENT

The following section addresses types of content often included in OUP publications, and provides general guidelines to help you determine who might hold the copyright and whether you need permission for your intended use. This list is by no means exhaustive; copyright law in most countries protects *almost all* works of original authorship fixed in a tangible form of expression (i.e., all works that are directly perceptible). For works that are *not* protected by copyright law see [Section 2.3.c: Types of works not eligible for copyright protection](#).

(a) Photographs, Illustrations, and Other Images

The copyright in a photograph usually belongs to the photographer, as opposed to the person who appears in the photograph. There are also instances where a photographer's employer will own the copyright in the photograph, for example if the photograph was taken in the course of the photographer's employment. Therefore, often a person who possesses a physical print of the photograph will not own the copyright. Permission will be required from the rightsholder, even if s/he is a friend or family member of the person providing the photograph to you.

Under US and UK law, the copyright will usually belong to the photographer. However, under UK law for photographs taken between 1 July 1912 and 1 August 1989 the copyright is held by the person who owned the material (for example the negative or transparency) on which the photograph was taken. If, however, the photograph was taken under commission for valuable consideration (i.e., money or any equivalent payment), then the commissioner is the rightsholder of the photograph. Accordingly, under UK law knowing when the photograph was taken is essential to determining who holds the rights.

Under Indian law a photograph that is commissioned by any person, in exchange for valuable consideration, is owned by the commissioning person, and it's that person from whom permission should be sought.

You must also consider whether the photograph contains copyright-protected works within it. A photograph of a painting that is protected by copyright, for example, may require permission from the painter in addition to the photographer. You must also consider whether model or patient releases are necessary from persons appearing in a photograph. Please see [Section 6: Interview and Model Releases and Patient Consents](#) for more information on releases.

Since a photograph is often reproduced in its entirety, "the amount and substantiality of the portion used in relation to the copyrighted work" (one of the factors in the fair use analysis, see [Section 2.6: Fair Use of US Copyright Works](#)) will often be 100 percent. As a result, you must carefully think through the nature of the use to determine whether it qualifies as fair use, or if permission should be sought. Similar considerations apply for UK, Indian or Canadian fair dealing (see [Section 2.7: Fair Dealing \(UK\)](#), [Section 2.8 Fair Dealing \(Canada\)](#), or [Section 2.9 Fair Dealing & Other Exceptions \(India\)](#))

Bear in mind that even where photographs and illustrations are included within covers of magazines, books, and music album covers, use of those photographs and illustrations must ordinarily be treated in the same manner as stand-alone images.

In order to obtain high quality files for certain images, you may also be required to pay a reproduction fee to the person or entity that owns the *physical property* (as opposed to the *intellectual property*) in question. Please do not confuse paying a reproduction fee with copyright permission, as the entity

permitting you to reproduce an image is usually not the rightsholder. In the event you wish to use an image of a work that is physically owned by a museum or gallery, you must follow that museum or gallery's rules with regard to reproduction (for example, do not try to avoid paying a reproduction fee by taking your own photograph of a sculpture if the museum housing that sculpture prohibits photography. Always review and adhere to the applicable policies).

(b) Letters

Unless a letter is written within the scope of the writer's employment (in which case the writer's employer would hold the copyright), it is the letter writer and not the recipient who initially holds copyright in the letter and from whom you will likely need to seek permission.

(c) Music and Lyrics

Reprinting excerpts from musical compositions (including lyrics) requires permission from the copyright holder, most typically the music publisher. Note that lyrics and musical compositions are often copyrighted separately from one another, so reproducing lyrics with musical notation may require two permissions from separate rightsholders. For example, if a composer sets a poem by e.e. cummings (whose work is still covered by copyright) to music, you would need permission from the cummings estate as well as from the composer. Note that under Indian law recent amendments to the Copyright Act suggest that certain rights in music and lyrics, including licensing rights, might be vested with copyright societies that license on behalf of rightsholders. We expect clarity on these laws in the near-future. For now, please refer questions regarding licensing music and lyrics in India to your OUP contact (authors) or the Legal Department (OUP editors).

As with other categories of content, the use of brief excerpts of music/lyrics may qualify as fair use under US copyright law, fair dealing under UK or Canadian law, or under Indian law, but you must always undertake the full analysis set forth in [Section 2.6: Fair Use of US Copyright Works](#), [Section 2.7: Fair Dealing \(UK\)](#), [Section 2.8: Fair Dealing \(Canada\)](#), or [Section 2.9 Fair Dealing & Other Exceptions \(India\)](#) before making this determination and must consult with the Legal Department for all close calls.

(d) Film, TV, and Radio (including stills, clips and posters, and scripts)

Most materials associated with films, television, and radio shows are protected by copyright and often the use of these materials will require permission.

Note that obtaining permission from large film companies can be difficult and extremely expensive. However, using a single video frame from a movie (i.e., a screen grab) in scholarly publishing will often be considered fair use under US copyright law, or fair dealing under UK, Indian, or Canadian copyright law (where criticism/review is present); however, you must always undertake the analysis set forth in [Section 2.6: Fair Use of US Copyright Works](#), [Section 2.7: Fair Dealing \(UK\)](#), [Section 2.8: Fair Dealing \(Canada\)](#) or [Section 2.9 Fair Dealing & Other Exceptions \(India\)](#) before making this determination. Note that where the use of screen grabs from film or television does not qualify as fair use or fair dealing, the material may be subject to more than one copyright (e.g., rights to the soundtrack may be held by one person/entity, and rights to the transcript by another).

Production or publicity stills (i.e., photographs taken during the making of a motion picture) and movie posters are subject to copyright as well; often they will not be single frames from the film and may therefore be less susceptible to fair use or fair dealing. Publicity shots, which are often part of

promotional kits for films, are, contrary to popular belief, protected by copyright unless an exception applies.

Film scripts/screenplays are protected by copyright in the same manner as any other textual material. Accordingly, unless an exception applies under US, UK, Indian, or Canadian copyright law (whichever applies), permission must be obtained.

(e) Adaptations and Re-draws (including figures, charts, maps, and tables)

Copyright law protects figures, charts, maps, and tables, and, unless an exception applies, permission is required to reproduce such material or create a derivative work therefrom. Accordingly, permission will almost always be required to re-draw an existing figure, chart, map, or table. There may be limited circumstances under which the facts or data represented in a chart, table, or map can be recast without permission, for example, where changes made are so substantial as to create an entirely new work; however, because this determination is complicated and it is the rare case where permission is not required, authors should always consult with their OUP contact, and OUP editors should escalate if you feel permission is not required.

The original selection, coordination, and arrangement of data may also be copyright-protected. Some numerical values resulting from the exercise of judgment may be copyrightable, too. You should not assume that all numbers qualify as non-copyrightable “facts” or “ideas.”

(f) Using trademarks, trade names, and logos

Releases/permissions may be required for the use of trademarks, trade names, and logos, which may be protected by trademark law. Very generally, permission will not be required where the use is *necessary* to describe the third party’s goods or the company or organisation itself *and* is related to critical commentary. Note that use of an organisation or company’s logo is almost never editorially “necessary” where the company/organisation name alone would suffice. Extensive use of logos and other trademarks, and use as part of cover designs, will often require permission. Please discuss the use of trademarks, trade names, and logos with your OUP contact (authors) or your manager (OUP editors). Some logos may also be sufficiently expressive to be protectable by copyright law as well as trademark law. Such a determination may be difficult to make, so you should always confer with your OUP contact (authors) or your manager (OUP editors) if you plan to use trademarks that contain a graphic element without permission.

Also, carefully consider whether the work utilizing the mark or logo frames the company or entity that owns the mark in a negative light. If so, you should consider whether it is appropriate for the work to be legally vetted (authors: speak with your OUP contact; OUP editors: please review the Legal Department's guidance on vetting, available on Oxford Share, and speak with the Legal Department if you have questions).

Finally, you must also always ensure that using a trademark will not cause confusion with regard to sponsorship, affiliation, or endorsement. You should consider utilizing a disclaimer where appropriate, identifying the logo and stating that the use is not sponsored, authorized, or endorsed by the trademark owner (e.g., “This article is not affiliated with, endorsed by, or in any way officially connected with X Company.”).

Incidental inclusion: If the use of a trademark is *incidental*, permission may not be required. For example, if an author would like to include a photograph in which a person in the background is

holding a product with a company's logo on it, permission would, generally speaking, not be needed from that company.

Given how complicated using logos can be, please consult with your OUP contact/the Legal Department if you have any questions.

(g) Works on the Internet

Works posted on the internet are protected by copyright law in the same manner as works made available in any other format, *i.e.* just because material is freely available on the internet (and even if it is posted there by the rightsholder) for all to see this does not impact the copyright status of that material; accordingly, you must obtain permission to reproduce copyright protected works from the internet unless an exception under copyright law applies. This applies to Google image search results as well as images on Wikipedia, Wikimedia Commons, Flickr, Instagram, and similar sites. There may also be terms of use for such sites that affect how content found on that site may be used, and you must review and adhere to such terms of use. Note that material may be posted on the internet by someone other than the rightsholder, and that material may be improperly labelled as “public domain”, “open access” or the like. You should always carefully investigate whether or not such material is, in fact, free to reuse.

(h) Screenshots

Using a screenshot from a website in the interior of a work will often be considered fair use under US law, may be fair dealing in the UK (if used in criticism or a review) or Canada, or may be permitted under an exception to Indian copyright law, but you must undertake the analysis set forth in [Section 2.6: Fair Use of US Copyright Works](#), [Section 2.7: Fair Dealing \(UK\)](#) [Section 2.8: Fair Dealing \(Canada\)](#), and/or [Section 2.9 Fair Dealing & Other Exceptions \(India\)](#) to make that determination. Also, even if use of the screenshot qualifies as fair use or fair dealing, pictures or text within that screen shot may require permission from a rightsholder. Additionally, some sites and platforms, such as Twitter or YouTube, have specific rules relating to the reproduction of imagery from their sites. Carefully check any legal notices on the website relating to the use of screenshots to ensure compliance.

(i) Abstracts

Scholarly abstracts (e.g., abstracts published in journal supplements) are protected by copyright law and must be treated in the same manner as any other third party content. Accordingly, unless an exception applies, you must obtain permission to reproduce abstracts.

(j) The author's previously published work

Authors will often need to seek permission from their prior publishers for re-use of their own previously published content, given that in many cases authors will have granted such publishers exclusive rights in the work. Authors should review the operative publishing agreement or license to determine what rights were granted to the publisher and what rights were retained by the author, as well as such publisher's author re-use policy. Even though an author's previous work may have been published by OUP, permission may still be necessary to re-use portions of that work in a different OUP work.

For works published by our Academic, Trade, and Medical publishing divisions, please refer to OUP's Author Re-Use Policy for additional guidance, available here:

<http://global.oup.com/academic/authors/permissions/?cc=us&lang=en&>.

If the usage does not fall into the re-use permitted by that policy or if the work published in the UK or Canada, permission should be sought from the OUP Rights and Permissions Department

(<http://global.oup.com/academic/rights/?cc=us&lang=en&>;

<http://global.oup.com/uk/academic/rights/permissions/author>).

Moreover, third-party content used by authors in previous publications, including in OUP works, will likely require additional permission for use in a new work. See [Section 2.5: New Editions](#) below.

(k) Other works published by OUP

Even if materials an author wishes to use were previously published by OUP, permission will still be required, generally speaking, unless an exception applies. Permission should be sought from the OUP Rights and Permissions Department (US and UK books: academic.permissions@oup.com; US and UK journals: journals.permissions@oup.com; Canada:

http://www.oupcanada.com/permission/permission_request.php.

(l) Poems

Like any other written material, permission is required to reproduce poems unless an exception under copyright law applies. Do note that poetry publishers and poets' estates tend to limit the permissions they grant and the process of clearing permissions for poetry can be particularly time-consuming so use particular care when utilizing excerpts from poems.

(m) Unpublished works

Unpublished works (i.e., works that have not been distributed in any manner—such as unpublished correspondence) are, as of 1978, protected by copyright in the US in the same manner as published works. The works are, regardless of when they were created, also protected by copyright in Canada, the UK, and India. However, the duration of copyright for such unpublished works may be different than for published works (See [Section 2.3: Types of Work Not Requiring Permission \[Duration of Copyright, Public Domain, and Government Works\]](#)), and the fact that a work is unpublished should be considered in the context of a fair use or fair dealing analysis (See [Section 2.6: Fair Use of US Copyright Works](#), [Section 2.7: Fair Dealing \(UK\)](#), or [Section 2.8: Fair Dealing \(Canada\)](#)).

In India, one may apply to the Copyright Board for what's known as a Compulsory License to publish an unpublished work. The Copyright Board, if it so decides to grant a license shall also set out the terms of the license. For more information about the Copyright Board, please visit <http://copyright.gov.in/frmcopyrightboard.aspx>. It is likely that the terms of such license will be too narrow for our uses (e.g., territory may be limited to India, only) so use care in obtaining such a license.

2.3 TYPES OF WORK NOT REQUIRING PERMISSION (DURATION OF COPYRIGHT, PUBLIC DOMAIN, AND GOVERNMENT WORKS)

Several categories of works will not require permission for use; this includes works that are in the public domain because they have never been or are no longer protected by copyright.

(a) Copyright has expired

When the copyright in a work expires, it enters into the public domain and permission is not required for use.

I. DURATION OF COPYRIGHT, US, UK, INDIA, AND CANADA

- *Duration of Copyright for Works Published or Created in the **United States***: Please refer to [Appendix 2: Term of Copyright – US](#) for detailed guidance on the how long copyright protection lasts for different categories of copyrighted works in the US.
- *Duration of Copyright for Works Published or Created in the **United Kingdom***: See [Appendix 3: Term of Copyright – UK](#) for detailed guidance on the how long copyright protection lasts for different categories of copyrighted works in the UK.
- *Duration of Copyright for Works Published or Created in **Canada***: See [Appendix 4: Term of Copyright – Canada](#) for detailed guidance on how long copyright protection lasts for different categories of copyrighted works in Canada.
- *Duration of Copyright for Works Published or Created in **India***: See [Appendix 5: Term of Copyright – India](#) for detailed guidance on how long copyright protection lasts for different categories of copyrighted works in India.

II. DURATION OF COPYRIGHT FOR WORKS PUBLISHED OR CREATED OUTSIDE OF THE US, UK, INDIA, OR CANADA

- *US Copyright Law*: Under US copyright law, works published outside of the US by foreign nationals or by US citizens living abroad are governed by a complex set of rules. Please see <http://copyright.cornell.edu/resources/publicdomain.cfm> for guidance. Generally, however, as of 2019, works published prior to 1924, even where published outside of the US, will be in the public domain under US copyright law. *Note: (each year this date will move forward, e.g. in 2020, works published prior to 1925 will be in the public domain under US copyright law).*
- *UK Copyright Law*: Under UK copyright law, the position for copyright protection (and duration of copyright) for works published outside of the UK is also very complex. It is safe to assume that a work is in the public domain in the UK only if first publication was before June 1957 and the author *does not* have citizenship in one of the countries listed at <http://www.legislation.gov.uk/ukxi/2008/677/made> (this is the list of countries that have copyright relations with the UK). Generally, every situation will need to be assessed individually.
- *Canadian Copyright Law*: Under Canadian copyright law, the duration of copyright protection for works published outside Canada is complex and variable, and depends

upon factors such as whether the country in which the work was published is a signatory to certain multilateral arrangements such as the Berne Convention or other bilateral arrangements between Canada and that country. If you need to determine the duration of copyright protection for works published outside of Canada, please contact the Legal Department.

- *Under India Copyright Law:* Under Indian copyright law the duration of copyright protection for works published outside of India depends upon the country in which such works were first published and whether that country is a signatory to certain multilateral arrangements such as the Berne Convention. Very generally, the duration of copyright in a work published outside of India will not exceed the duration of copyright in the country of origin. Determining the country of origin can be complex; please contact the Legal Department to determine the duration of copyright protection for works published outside of India (OUP Editors) or speak with your editor (authors). Additionally the term of Copyright for the territory of India will not exceed the *term of Copyright in India*.

III. CAUTION: RECENT VERSIONS OF PUBLIC DOMAIN WORKS; TRANSLATIONS OF PUBLIC DOMAIN WORKS

- Be very careful about using recent versions of public domain works (e.g., an annotated version of Middlemarch). Recently published versions of public domain works may contain edits, annotations, or other changes to the underlying work that are significant enough to be independently copyrightable; those edits or changes may still be in copyright even if the original work is not, and permission would be required to reproduce them.
- Even though an underlying work (e.g., a Roman inscription, the French Declaration of the Rights of Man, the libretto of Verdi's Aida) is in the public domain, the English translation of that text may still be in copyright, and permission may be required to quote it. Check the copyright notice for the translation itself.

(b) Copyright owner has dedicated the work to the public domain

Although an author may, in rare circumstances, deliberately put a work into the public domain (by, for example, publishing the work with the text “this work is dedicated to the public domain”, via the Creative Commons or, in India, by filing a form with the Copyright Office or by way of a public notice) do not assume the work is free to use unless there is a clear and express statement from the copyright holder releasing all rights in the work. Even where a work is available online with a statement that it has been dedicated to the publication domain, you should always check whether the person purporting to put the work into the public domain is in fact the copyright owner (e.g., by searching the US Copyright Office's online records). When you are unsure about this, it may be necessary to contact the copyright owner and verify the dedication. Moreover, if you believe a work has been dedicated to the public domain, please discuss with your OUP contact (authors) or your manager (editors) and always keep a copy of the document relied upon as a waiver of copyright in case it later becomes unavailable.

(c) Types of works not eligible for copyright protection

Several types of material are not eligible for copyright protection under US, UK, Indian, and Canadian copyright law. These include (but are not limited to):

- Works that have not been fixed in a tangible form of expression (e.g., improvisational speeches or performances that have not been written or recorded) *note*, however, that under Indian law public speeches that are delivered “on behalf of any other person” may be owned by the person on whose behalf the speech is delivered;
- Facts, ideas, data, methods, or theories (but the *expression* of those facts, ideas or theories is eligible for protection and, again, an original selection, coordination, or arrangement of facts and ideas may also be eligible for copyright protection); and
- Titles, names, short phrases, and slogans.*

***Note:** At the time of the creation of these guidelines, recent EU cases suggest that copyright *may* extend to certain newspaper headlines and unique titles and slogans. Also, even if these materials may not be eligible for copyright protection, they may be protected by trademark or other laws and therefore their use may require permission. Consult with your editor/manager with regard to the use of such content.

Also, keep in mind that, because the duration of copyright is computed differently in different countries, a work that is in the public domain in one country may still be protected in others. For example, you should not assume that no permission is needed to use the work of another simply because it is in the public domain in his or her home country. This would have to be reviewed under the points raised under [Section 2.3\(a\)\(ii\)](#) above.

(d) US Government Material

Works created by the US government (i.e., works created by US government employees within the scope of their employment) are, by law, in the public domain in the US. This rule has some exceptions; for example, it does *not* apply to works created privately and acquired by the US government (including works created by US government contractors), even if they were commissioned by the government. This rule also does not apply to works created by state or local governments or by foreign governments. Also, certain independent US government agencies may be exempt from their works being considered US government material – these include the United States Postal Service and works created by the Department of Commerce that qualify as “standard reference data” created under the Standard Reference Data Act.

Note that US government trademarks or logos cannot be used without express permission, and US government works cannot be used in any way that implies that the use (or the work into which it is incorporated) is endorsed by the US government or an agency thereof.

Also note that although US government works are generally in the public domain in the US, the US government may claim copyright in those same works if they are published abroad. Whether US government works are in the public domain abroad will depend on the laws that the country where the work will be used applies to its own government works. If you are unsure please discuss with your OUP contact (authors) or manager (OUP editors), and escalate as appropriate.

(e) UK Crown and Parliamentary Material

I. CROWN COPYRIGHT

Crown copyright material includes legislation, government codes of practice, ordinance survey mapping, government reports, official press releases, government forms, and many public records. It also covers works created by officers or servants of the Crown (e.g., civil servants, diplomats, Her Majesty's forces) in the course of their duties.

II. OPEN GOVERNMENT LICENCE

Much of Crown copyright material is expressly available for free re-use under the Open Government Licence (OGL), which grants a worldwide, royalty-free, perpetual, non-exclusive licence to use the material subject to certain conditions.

There are limitations on what is covered by the OGL, most importantly that **you cannot use information that is not expressly offered under the licence**. For details on the conditions of the licence and a list of exempted material please view the licence online at:

<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>.

Note also that the OGL does not cover information that has not been published or released by or with the consent of the relevant public organisation. This means that the first publication of Crown copyright material does not benefit from the OGL and therefore still requires a licence. However, once the material has been published (e.g., by OUP), the specific material that has been published may fall under the OGL so that other publishers can re-publish it.

III. ATTRIBUTION

The OGL requires you to attribute the information provider:

a. Standard publication acknowledgment

[Insert title, author department/organisation, year of publication, any applicable copyright notice or in the case of a database, the applicable database right notice]. This information is licenced under the terms of the Open Government Licence (<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2/>).

b. If a document is accessed through a website

[Insert title, author department/organisation, year of publication, any applicable copyright or database right notice]. This information is licenced under the terms of the Open Government Licence v2.0 (<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2/>) (*www.department.gov.uk/document, accessed DD/MM/YY*).

c. Information from multiple sources

If the text we are publishing is not all licenced under the OGL (i.e., we are combining it with original text or information from other sources), it is not accurate to suggest that all of the information is licenced under the terms of the OGL. In this case, the appropriate acknowledgment is: Contains public sector information licenced under the Open Government Licence v2.0.

*Further guidance on using OGL licences can be found at:

<http://www.nationalarchives.gov.uk/documents/information-management/ogl-user-guidance.pdf>

IV. PARLIAMENTARY COPYRIGHT

Material produced by Parliament is protected by Parliamentary copyright and can be re-used under the Open Parliament Licence.

The terms of this licence in addition to a list of exclusions can be found at:
<http://www.parliament.uk/site-information/copyright/open-parliament-licence>

(f) Crown Copyright in Canada

All levels of government in Canada can claim copyright in material prepared by their employees, and the federal, provincial and territorial governments have copyright ownership in anything done “by or under the direction or control of Her Majesty or any government department,” subject to any agreement with the employee/creator. This Crown prerogative has historically been viewed as encompassing even legislation and judicial decisions, but governments have recently made it clear that such materials can be used without permission if appropriate attribution is given. Otherwise, copyright clearance for federal government publications must be obtained from the department or agency producing them (<http://publications.gc.ca/site/eng/ccl/index.html>). Similarly, each province and territory provides a mechanism to obtain licences for reproducing material subject to Crown copyright. In Ontario, it is the Queen’s Printer: <https://www.ontario.ca/government/copyright-information-c-queens-printer-ontario>.

(g) Indian Copyright Law: Government Works

A “government work” under Indian copyright law means a work that is made or published by or under the direction or control of: i) the government or any department of the government; (ii) any Legislature in India; or (iii) any court, tribunal or other judicial authority in India. There are various defences under Indian law that make it possible to reproduce government works without permission, for example the following may be reproduced without permission: (1) any government work that is reproduced for the purpose of a judicial proceeding or for the purpose of reporting a judicial proceeding; (2) a government work that has been published in any Official Gazette except an Act of a Legislature; (3) any Act of a Legislature subject to the condition that such Act is reproduced or published together with commentary or other original matter; (4) the report of any committee, commission, council, board or other like body appointed by the legislature, unless the reproduction of such report is prohibited by the government; (5) the report of any committee, commission, council, board or other like body appointed by the legislature, unless the reproduction of such report is prohibited by the Government; (6) any judgment or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such order is prohibited by the court, the tribunal or other judicial authority, as the case may be; and (7) translations in any Indian language of an Act of a Legislature or rules or orders made thereunder if no translation has been provided by the government or if published by the government it is not available for sale to the public (provided the translations state that these are not authorised or accepted as authentic by the government). Additionally, in the case of a work made of first published by or under the direction and control of any public undertaking (*i.e.* company or business that is acting on behalf of the government or organized by the government) such public undertaking shall, in the absence of an agreement to the contrary, be the first owner of copyright.

Apart from these exceptions, the reproduction of any other government work will require express permission.

(h) Canadian Copyright Law: Substantial Portion Requirement

Note that under Canadian law, only using a “substantial part” of a copyright protected work amounts to an infringement, but this can be difficult to determine. It depends on not only how much of the work is used but also the importance of the part taken and the nature of the work itself. Quality more

than quantity determines whether the part used is “substantial.” As reviewed below, this also leads into a discussion of what constitutes “fair dealing” and whether a proposed use can be considered fair, even if it would otherwise be considered an infringement. Any use of someone else’s work raises the issue of possible copyright infringement and requires careful consideration.

2.4 CREATIVE COMMONS LICENCES; GNU FREE DOCUMENTATION LICENCES

Creative Commons (CC) is a non-profit organisation that enables the sharing of content governed by CC licences. CC makes a wide variety of licences available to allow rightsholders to control the manner in which their material may be re-used. If content is published under a CC licence, it *may* be available for free re-use, under certain conditions. There are currently six types of CC licences available, each governed by different terms: Attribution (CC BY), Attribution Share Alike (CC BY-SA), Attribution No Derivatives (CC BY-ND), Attribution Non-Commercial (CC BY-NC), Attribution Non-Commercial Share Alike (CC BY-NC-SA), and Attribution Non-Commercial No Derivatives (CC BY-NC-ND). For details on each licence please see: <http://creativecommons.org/licenses/>. These same licences are also available for use with reference to Canadian copyright law: <http://creativecommons.ca/en/licenses>.

Using content governed by a CC licence

When using material for which a CC licence applies, *carefully review* the terms of the specific licence to confirm that it allows for the use intended. Look out for the following (where relevant):

- Does the licence prohibit commercial re-use? (For more information on what constitutes “commercial re-use” see [Section 5.1: Museums, Archives and Stock Image Houses](#)). The CC defines a commercial uses as those uses that are “primarily intended for or directed toward commercial advantage or monetary compensation.” Use of materials governed by CC licenses that prohibit commercial re-use are highly unlikely to be permissible in OUP products; however, the non-commercial requirement does not limit uses that are otherwise permissible under fair use, fair dealing, or other exceptions to copyright. If you believe that your particular use is a non-commercial re-use, please speak with your OUP contact (authors) or your managers (OUP editors).
- Does the licence allow the creation of a derivative work?
- Is the licence available under a “Share Alike licence”? A Share Alike licence provides that the underlying work, and any derivative works created from the underlying work must also be governed by the Share Alike licence. This license further provides that the underlying work and any derivative work based on it cannot be protected by any technological measures (e.g. DRM). Where the material governed by a Share Alike license is text, and that text is modified, you will need to carefully consider the extent to which use of that modified text may mean that the entire chapter or article the text appears in will be governed by the Share Alike license. You will need to consider the extent to which the modified text stands alone, as opposed to being integrated with the rest of the chapter. Accordingly, if the licence is available under a Share Alike licence, you must first consult with your OUP contact (authors) or your manager (OUP editors) before using such material to ensure that the terms of the license can be observed.

Always ensure that the CC-licensed work is attributed in the manner specified by the author/ licensor.

GNU Free Documentation Licenses is a license for free documentation, designed by the Free Software Foundation for the GNU Project. These licenses were designed for manuals, textbooks, other reference and instructional materials, and documentation that often accompanies GNU software. Accordingly, these license

are usually not applicable to uses in OUP publications and should not be relied upon. Moreover, the conditions imposed by the license are incompatible with the manner in which OUP publishes.

2.5 NEW EDITIONS

Re-using third party content from a previous edition of an OUP work in a *new* edition of that same work requires a thorough review of the permissions granted for the prior edition in order to determine whether the grant of rights was limited to a single edition.

2.6 FAIR USE OF US COPYRIGHT WORKS

Even if a work is still in copyright, you may nonetheless be able to quote relatively small portions from it without permission from the copyright owner under the “fair use” doctrine of the US copyright law, if US law applies ([See Section 1](#)). A fair use analysis is highly fact-specific, subjective, and nuanced. Although there are key factors to consider (listed below), unfortunately – and contrary to “word number rules” and other myths about fair use – there are no hard and fast rules to apply in weighing these factors, only general guidelines that may or may not fit a particular situation. Please remember that the following are guidelines only, and each scenario must be carefully considered. In the case of a “close call,” you should consult with your OUP contact/manager, as relevant.

(a) Fair Use: Key Factors

A use *may* be considered fair use under US copyright law when portions of a copyright-protected work are used for criticism, comment, news reporting, teaching, scholarship, or research, based upon consideration of the four key factors:

I. THE PURPOSE AND CHARACTER OF THE USE:

A use is more likely to be considered fair under US law if it is transformative, i.e., not a mere reproduction of the underlying work but, rather, a commentary on, critique of, or other interrogation of the work (e.g., a parody). The more transformative the use, the more likely it is to be deemed fair. However, if the use is commercial in nature, e.g., for advertising purposes, it is less likely to be considered fair.

II. THE NATURE OF THE COPYRIGHTED WORK:

The reproduction of highly artistic/creative works is less likely to be considered “fair” than the use of fact-based material. In addition, use of unpublished works (e.g., unpublished correspondence) requires a more measured fair use analysis than use of a published work.

III. THE AMOUNT AND SUBSTANTIALITY OF THE PORTION USED:

There is no “safe” word limit for fair use, as courts take a qualitative rather than a quantitative approach. Generally, though, the smaller the amount used the more likely it will be fair use under US law. Note, however, that even the use of small portions may not qualify as fair use when the portion used is the “heart” of the work, i.e., the core/most important aspect of the work. Also, evaluate the amount used in proportion to the work as a whole– even using a very small amount of a very short work (e.g., a short poem, song, or letter) may not be considered fair use.

IV. THE EFFECT OF THE USE UPON THE POTENTIAL MARKET:

A use that would supplant the market for the original or deprive the rightsholder from other income (e.g., licencing income or income from a potential or new market for the work) is less likely to be considered fair use than a use that will have no effect on the market or rightsholders’ potential income.

(b) Fair Use: Tips

With the caveat that fair use analyses must always be undertaken on a case-by-case basis, and with a reminder that the following is specific to us law, below are a few useful guidelines:

- **Unpublished Works:** Use of an unpublished work (i.e., a work that has not been published with the authority of the rightsholder) is less susceptible to fair use under US law than a published work and should be treated with special care. If you believe that fair use would otherwise apply to your use had the work been previously published, consider using even less of that work than you would otherwise deem acceptable for a published work. Also consider limiting the use to a report of some of the facts or ideas in your own words.
- **Photographs and Artwork:** Photographs and artwork will often require permission for use, as such use will often be the entirety of the work. The exception generally will be when the author is commenting on, criticizing, or otherwise interrogating the photograph/artwork itself or what it depicts (beyond a mere description of the photograph/artwork) *and* the reproduction is small in size (and, in the case of online reproductions, low resolution).
- **Percentage of Original:** It is usually acceptable to quote in the aggregate up to 400 words from a book-length copyrighted text without express permission, if you meet the conditions in the bullet points below. Substantially more verbatim quotation from book-length works (e.g., up to 1%, 2%, or more of a single source work) may also sometimes qualify as fair use, when the use is highly transformative. Similarly, it is usually acceptable to quote up to an aggregate 150 words from a magazine article, newspaper article, short published essay, or journal article, or 7%, whichever is less, if you meet the conditions in the bullet points below. Here, again, substantially more quotation may also qualify as fair use, when the use is highly transformative. However, when exceeding 400 words of quotation for book-length works (or the lesser of 150 words or 7% from articles, or, when in doubt, even the use of a lesser portion of a work), an author/editor should consult with an OUP editor or, in the case of OUP editors, with the Legal Department for more detailed guidance on transformative use.
 - The excerpt is not the work as a whole or a complete unit thereof (e.g., not an entire article, chapter, table, or encyclopaedia entry);
 - The excerpt does not constitute the “heart” of the work (i.e., the essential or key portion of the work, or a portion that could be a substitute for the original);
 - The excerpt is used to demonstrate or support an author’s own original comments, analysis, or thesis;
 - You appropriately credit the source (appropriate credit will vary, depending on the type of work quoted and the type of OUP work in which the quotation appears); and
 - You keep in mind that the numbers are aggregates and that multiple quotations from the same work should be considered together.

* **Note:** Permission is more likely to be required where the source material is very short (a poem, song, letter, or other short piece). Permission is also more likely to be required where the work (of any length) has not been previously published. Accordingly, consult with your editor/manager if you are quoting verbatim or closely paraphrasing from such a shorter works and/or unpublished work and believe that your use qualifies as fair use.

- **Manner in Which Quotation Being Used:** If the quoted material is being used without explicit comment (as with an epigraph), a good rule of thumb is that you should not use more than a line or (if you are quoting from a full book) two lines. Note that the majority of epigraphs used without comment are likely *not* to be considered fair use, as this majority is employed as artistic supplement, adding color to a discussion, rather than being critical in its own right.
- **Acknowledgments:** It is always a good idea to acknowledge your sources, regardless of whether it is required under the applicable law. Indeed, even if there is no requirement to acknowledge a source, best practices/rules of ethics in a given discipline may call for a specific form of acknowledgment.
- **Further Information:** For further information about fair use and the application of the four criteria, please consult the United States Copyright Office at www.copyright.gov and the Stanford Fair Use Center at <http://fairuse.stanford.edu/overview/fair-use>.

2.7 FAIR DEALING (UK)

“Fair dealing” refers to the specific instances when, under UK law, copyright material may be used without seeking formal permission from the copyright holder. UK law permits fair dealing with certain types of copyright material for UK copyright-protected works for the purposes of research (non-commercial) and private study, criticism, or review or the reporting of current events. You must always first determine whether UK law applies to your use ([See: Section 1](#)).

These exceptions convert what would otherwise be an infringement into a lawful act provided that the use is fair and accompanied by sufficient acknowledgment.

Fair Dealing should not be confused with Fair Use (see above).

(a) Factors to be Considered

What constitutes fair dealing under UK law requires a **case-by-case analysis**; the following (non-exhaustive) factors should be considered:

- i. **To what extent does the use commercially compete with the exploitation of the copyright work by the owner?** Would it be seen as an acceptable substitute to the buying public? If it does compete, a fair dealing defence will almost certainly fail.
- ii. **Has the work been published?** If it has not, especially when it has been obtained unlawfully (e.g., by breaching of duty confidentiality), the courts will be reluctant to say the dealing is fair.
- iii. **The amount and importance of the work taken.** Contrary to popular belief, there is no “safe” word limit for fair dealing, as the courts take a qualitative rather than a quantitative approach. It is necessary to consider whether the extract taken contains the “heart” (i.e., the main thrust of the argument) of the work. In general, when the quotation contains the first or last line of the text, it is more likely to be found to capture the “heart.”
- iv. **Is the usage necessary for the relevant purpose?** To rely on the fair dealing defence for criticism and review, ask, for example: Is the material really being critiqued or reviewed or simply being reproduced? In this context, the majority of epigraphs are not considered to fall within fair dealing, as they are often employed as artistic supplements, adding colour to a discussion rather than being critical in their own right.

- v. **The intentions and motives of the user.** Was the use really necessary to make the point in question or could less have been used?

(c) When should the Fair Use/ Fair Dealing Analysis Be Undertaken?

A fair use/fair dealing analysis should always be conducted *before* seeking permission. If you seek permission and the request is rejected (or the fee quoted is too high) but you *subsequently* determine that your use is covered by fair use/fair dealing and proceed without permission, the fact that you initially sought permission could invite a legal challenge from the rights holder, even though it would not undermine the legal defense (if it was available). If you have any issues conducting a fair use/fair dealing risk analysis, please consult your OUP contact/manager (as relevant).

(d) What is "sufficient" acknowledgement?

A sufficient acknowledgment is an acknowledgment identifying the copyright work, by its title or other description, and the author, *unless* the work was published anonymously.

2.8 FAIR DEALING (CANADA)

Just as in the US and UK, exemptions exist in Canada to permit "fair dealing" of a copyright work, and its law reflects many of the same concerns and factors that are discussed above. Of course, you must first determine whether Canadian law applies to your use ([See: Section 1](#)). "Fair dealing" provides an exemption under the Canadian Copyright Act for use of copyright material without permission from the rightsholder. The onus is always on the person claiming fair dealing once a rightsholder can show that an original work has been infringed – that is, a "substantial part" has been reproduced. There are two essential elements of the test for "fair dealing."

First, the use must fall within one of the seven categories set out in the Act (ss. 29, 29.1 & 29.2): research, private study, education, parody, satire, criticism or review, or news reporting. None of these is further defined in the statute, and they have received limited judicial review; a common sense approach is required. The latter two categories – criticism or review and news reporting – require that the source of the copyright material be cited and *if* so provided by the source, the name of the author, performer, etc. must be mentioned in the citation.

Second, the actual use, or "dealing" of the copyright material must be "fair." Again, what this means is not spelled out in the Act but has been extensively reviewed by Canadian courts, which have developed their own list of factors set out below. These are not meant to be exhaustive nor are all relevant in any particular case; they reflect most of the same concerns described above for US fair use and UK fair dealing. Nevertheless, it cannot be safely assumed that a use that meets the test in the US or UK will necessarily qualify as fair dealing in Canada – or vice versa. Further, there is no precise formula, word count or percentage that can be safely relied on. It is a "matter of impression" in which each of the various factors may affect others. Consult with your OUP contact/manager, as appropriate.

Key factors:

- Purpose of the dealing
 - As a starting point, the dealing must fit within one of the seven categories set out above, but the actual purpose or motive for the use may also affect the test for fairness; research for commercial purposes may not be seen as fair as research done for charitable purposes. On the

other hand, a 30-second preview of a musical work allows consumers to conduct their own research and decide if they want to purchase the work.

- Character of the dealing
 - The broader the circulation and number of copies made and their permanence, the less likely the use will be fair.
- Amount of the dealing
 - A trivial amount taken from a work will not amount to a “substantial part” and not be regarded as an infringement at all; then the fair dealing analysis is unnecessary. Beyond this threshold, the shorter the excerpt, the more likely it is to be fair, and there is no general prescription as to how much can be permitted. It may be impossible to criticize or review a photograph or painting by just showing a small percentage of it. On the other hand, a small percentage of a lengthy work may be sufficient. In addition, a qualitative assessment must be made as to the importance of the part taken – whether it was the heart of the work.
- Alternatives to the dealing
 - Was the use “reasonably necessary” to meet the purpose, or could a less substantial part or non-copyright material have been used just as effectively? Would permission have been easily obtainable on a reasonable basis?
- Nature of the Work
 - Use of an unpublished or even confidential work is less likely to be fair. This contrasts with appropriate use of a published work since there is presumably some potential benefit to an author. People may be attracted to reading/seeing more of it and making a purchase.
- Effect of the dealing on the work
 - The effect of a use on the present or reasonably foreseeable market of the copyright work can be important. A product that competes with the work or occupies a field that its rightsholder is planning to enter is less likely to be considered fair. This is where the US emphasis on “transformative use,” with an appeal to a different market, can come into play although it is not a distinct focus in Canada.

Tips: The suggestions made above under both fair use (US) and fair dealing (UK) are also useful for fair dealing under Canadian law. It is always best to include full citations of works to benefit readers and avoid allegations of plagiarism, but they can be critical to claims of fair dealing if the logical category is for the purpose of criticism or review or news reporting. Some of the categories are very new under Canadian law – education, parody, or satire – and their scope is far from clear. In fact, many elements of fair dealing are relatively untested, as claims tend to be resolved prior to court.

The key is to identify possible problems and make conscious decisions as to whether it is better to ask for permission or to rely upon a defence of fair dealing. As noted above, having a request for permission turned down can create problems that may be avoided by carefully undertaking a fair dealing analysis and using the material in a manner consistent with the criteria set forth above.

2.9. FAIR DEALING & OTHER EXCEPTIONS (INDIA)

There is no statutorily defined doctrine of “fair dealing” or “fair use” under Indian Copyright law. However, in the event Indian law applies to your use ([See: Section 1](#)) the Indian Copyright Act does include a provision that creates a defence of fair dealing where the use fits into the specific contexts permitted by the Copyright Act. Specifically, fair dealing may be found in the following contexts (i) private or personal use, including research, (ii) criticism or review, whether of that work or any other work or (iii) the reporting of current events and current affairs, including the reporting of a lecture delivered in public. The defence of fair dealing can only be

raised in the context of the abovementioned circumstances and applies to all types of works, except for computer programs.

In addition to the clause of the Indian Copyright Act that recognizes a form of fair dealing, under Indian law certain uses of copyright protected material in collections of mostly non-copyright protected material that is for instructional use may not require permission. Specifically: “the publication in a collection, mainly composed of non-copyright matter, bona fide intended for instructional use, and so described in the title and in any advertisement by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for such use in which copyright subsists: Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years.” will not be deemed to infringe copyright. Please speak with the Legal Department (OUP editors) or your editor (authors) if you think that a use may fall into this exception.

SECTION 3: REQUESTING PERMISSION

3.1 WHAT RIGHTS TO REQUEST – BOOKS

The goal is to procure the broadest set of rights possible from the rightsholder in order to allow OUP to disseminate its publishing as widely as possible (which is consistent with our mission). Generally this means the ability to use content in all editions, all formats, worldwide, in all languages for the entire term of Copyright and for publicity and marketing purposes. However, this is not always possible, due to budget constraints or rightsholders’ limitations. You should agree upon the minimum set of rights necessary for a given work with your editor (authors) or manager (OUP editors) on a project-by-project basis, in advance of seeking permission. All permissions cleared should be clear and specific *at least* as to:

- Territory (i.e., worldwide or limited to specific countries)
- Languages
- Format (i.e., print, electronic)
- Term

As a matter of strategy, though not always practical, it is wise to determine whether you need permission for the materials you intend to use or whether an exception such as fair use or fair dealing applies *before* seeking permission. If you determine you do not need permission after having already asked for it an argument later that permission was not required will be weakened.

(a) OUP standard permission request form

Wherever possible, please use OUP’s standard permissions form for books ([Appendix 1](#)) for permission requests. This form includes the standard set of rights we hope to clear. Some rightsholders may not be willing to grant all the rights listed, may insist on using their own form, or may charge prohibitive fees for certain rights. However, because many rightsholders *will* grant these rights when asked, the attached permission form should be used as a starting point wherever possible. The attached forms are unlocked; therefore, if you have consulted with your editor (authors) or manager (editors) and determined that there are good reasons not to request the broad rights included in the standard form, you may modify the form accordingly. Always think carefully about the rights you are willing to forego and how this might affect future publishing.

Note that the rightsholder may mark up our form, striking certain language such as acceptable uses, time limits, etc. Be sure that you understand the consequences of any changes the rightsholder makes, and discuss them with your editor (authors). OUP editors – if you are unsure as to whether changes made are acceptable, consult with your manager.

Also, know that some rightsholders will not return the hardcopy of the form, but will indicate acceptance via email. In this case you should print out the rightsholder's acceptance email along with the request you submitted and the form you have proffered for your files.

Finally, some rightsholders will insist on permissions requests going through the Copyright Clearance Center and/or STM. Please see [Sections 3.3: Fees \(Including through the International Association of Science, Technical and Medical Publishers \[STM\]\)](#), [5.3: PictureBank and the Digital Asset Management System](#), and [5.4: STM Publishers' Permissions Guidelines](#) for more information.

(b) Information to include in permission requests

If you are not using OUP's standard permission request form (because, for example, the rightsholder is insisting you use his/her form), make sure to include the following information either on the form itself or in an accompanying covering email (*in addition* to the permission being requested, as set forth above):

- Your full contact details
- Details of the rightsholder's material you want to use:
 - author, title, year of publication, ISBN, page numbers/chapter title (if relevant)
 - for text requests: word count
 - for illustration requests: figure/table/page number where applicable
 - attach a copy/ scan of material requested (if available)
- Information relating to the forthcoming OUP title:
 - title (if tentative, note this), edition (if applicable – though try *not* to limit the permission to a single edition), and author/editor
 - tentative publication date and type of publication (e.g. academic monograph, trade book, college textbook)

If the information is provided in a covering email, editors please make sure you file that email along with the permission document.

Note, however, that under Indian law a permission document *must* be signed by the rightsholder/licensor (although a digital signature is sufficient) and must include: the name of the work being licensed, the rights assigned/licensed and the duration and territorial extent. It is also necessary that any permission agreement includes a fee, even if it is nominal; the permission document must set out any payment agreed upon in the agreement. Finally, under Indian law, if you do not use the materials within one (1) year of the date of the permission, the permission will automatically lapse, *unless* the permission specifically states otherwise. Accordingly, for permissions obtained from Indian rightsholders or on behalf of OUP India, you must also include a statement that the parties agree that there is no automatic lapse for non-use of the materials.

3.2 WHAT RIGHTS TO REQUEST – JOURNALS

The goal is to procure the broadest set of rights possible from the rightsholder in order to allow OUP to disseminate its publishing as widely as possible (which is consistent with our mission). Generally this means the ability to use content in all formats, worldwide, in all languages for the entire term of Copyright and for publicity and marketing purposes. For journals publishing, we currently require that the following *minimum* set of rights are procured:

- Territory: worldwide
- Language: preferably all languages (if you believe English-only is permissible speak with your Production Editor)
- Format: print and electronic
- Term: duration of copyright

As procuring the rights listed above may not always be possible, authors should agree upon the minimum set of rights necessary for a given article with your Production Editor in advance of seeking permission. Note that all permissions documents must be specific as to the foregoing rights, regardless of whether it has been agreed that a narrower set of rights is acceptable in a given circumstance.

As a matter of strategy, though not always practical, it is wise to determine whether you need permission for the materials you intend to use or whether an exception such as fair use or fair dealing applies *before* seeking permission. If you determine you do not need permission after having already asked for it an argument later that permission was not required will be weakened.

(a) OUP standard permission request form

Wherever possible, please use OUP's standard permissions form for Journals ([Appendix I](#)) for permission requests. This form includes the standard set of rights we hope to clear. Some rightsholders may not be willing to grant all the rights listed, may insist on using their own form, or may charge prohibitive fees for certain rights. However, because many rightsholders *will* grant these rights when asked, the attached permission form should be used as a starting point wherever possible. Always think carefully about the rights you are willing to forego and how this might affect future publishing.

Note that the rightsholder may mark up our form, striking certain language such as acceptable uses, time limits, etc. Be sure that you understand the consequences of any changes the rightsholder makes, and discuss them with your Production Editor. Production Editor – if you are unsure as to whether changes made are acceptable, consult with your manager.

Also, know that some rightsholders will not return the hardcopy of the form, but will indicate acceptance via email. In this case you should print out the rightsholder's acceptance email along with the request you submitted and the form you have proffered for your files.

Finally, some rightsholders will insist on permissions requests going through the Copyright Clearance Center and/or STM. Please see [Sections 3.3: Fees \(Including through the International Association of Science, Technical and Medical Publishers \[STM\]\)](#), [5.3: PictureBank and the Digital Asset Management System](#), and [5.4: STM Publishers' Permissions Guidelines](#) for more information.

(b) Information to include in permission requests

If you are not using OUP's standard permission request form (because, for example, the rightsholder is insisting you use his/her form), make sure to include the following information either on the form itself or in an accompanying covering email, *in addition* to the permission being requested, as set forth above:

- Your full contact details
- Details of the rightsholder's material you want to use:
 - author, title, year of publication, ISBN, page numbers/chapter title (if relevant)
 - for text requests: word count
 - for poetry requests: line count
 - for illustration requests: figure/table/page number where applicable (and/or a link if the material is available online)
 - attach a copy/ scan of material requested (if available)
- Information relating to the forthcoming OUP article and Journal:
 - Journal name, and a statement that it is published by Oxford University Press
 - title of the article (if tentative, note this),
 - tentative publication date if available (the year of publication is often sufficient, but note that it is tentative)

If the information is provided in a covering email, please make sure you file that email along with the permission document.

3.3. COMMON ISSUES

Rightsholder's Permission Forms: Many rightsholders (including other publishers) will require you to use their standard permission form in lieu of OUP's. Carefully review any form provided by the rightsholder to ensure that all the rights needed are granted and that any limitations are acceptable. It may be helpful to compare the rightsholder's form to OUP's form to identify any rights that are missing or other limitations the rightsholder may have imposed. If the grant of rights is unclear or too limited, you should follow up with the rightsholder to clarify or amend the document or to ask for additional rights. If there is no contact information provided for the rightsholder you should re-submit the request with your counteroffer. Remember, any acquisition of permission is a negotiation – do not assume that the permission form must be signed as is; rather, the form is an invitation to discuss terms, where necessary. If you need assistance understanding the rightsholder's form, work with your OUP contact (authors) or manager (editors).

Electronic rights: In an ideal world, we would always be granted permission to use any content in all formats or media, including such formats that might be developed in years to come. Of course, not all rightsholders will be willing to grant such rights (or the budget may not allow us to pay what they require for such rights). However, it is vitally important that any grant of permission includes, at the very least, print and electronic rights even where there are no current plans for electronic publication of the work. For Journals, it is also vitally important that the grant of rights not be limited by time. If you are unable to obtain electronic rights (without a time limit for Journals authors) you must obtain approval from your OUP Contact (authors) or

manager (editors) to proceed in using the material in the work. Journals authors: if you are unable to procure print and electronic rights without a time-limit, OUP may be unable to publish your article.

- **Electronic vs. Digital vs. Online vs. eBook: What rights have I been granted?** If rightsholders require use of their forms, you will need to be sure that you understand the rights you have procured. Below are general definitions of common terms with regard to electronic rights:
- **Electronic or Digital Rights:** these terms are used interchangeably and refer broadly to the use of content in any electronic or digital medium, including, for example, on CD-ROM, the Internet, online services, electronic information storage or retrieval systems, apps, and eBooks.
- **Online Rights:** Online rights are arguably narrower than electronic or digital rights – the licensor may intend to grant rights to publish only on the web, and may not intend to grant you the right to include the content in eBooks, apps, or other non- web-based products.
- **eBook Rights:** eBook rights refer to inclusion of the material in an individual publication of the verbatim text of the work on a stand-alone basis in electronic form.

Restricted rights: Ideally, permissions grants will be without any restrictions. As this is not always possible, it is important to understand the nature of restrictions that rightsholders often impose, so that you can (in consultation with your editor/manager) determine whether the restrictions are acceptable for use in a given title and understand when you will need to reapply for additional rights. Be careful not to underestimate print runs, time limitations, or storage limitations, as doing so may mean incurring additional fees down the line.

- **Print run limitations:** Avoid print run limitations whenever possible. Book authors and editors: If a licensee insists on print run limitations, such limitations must be specific to the work in print format, only, and must include a clear and explicit exception for use in online products (e.g., “the foregoing shall not apply to the publication of the Work as an online product”). Journals authors: if a licensee insists on print run limitations you must consult with your Production Editor.
- **Time limitations:** Book authors and editors: Determine with your editor/manager whether a time-limited grant of rights is practical for a given title, and what the shortest acceptable term would be. Journals authors and editors: time limits are currently not acceptable for OUP journals. If a rightsholder insists on a time limit, explain that our requirement reflects the fact that scholarly journals have become increasingly important and are now generally regarded as the official “version of record” used in academic citations, and the like. This means that permissions must be cleared for the duration of copyright before an article can be published, and the article must remain unaltered. Where permissions cannot be cleared for the life of copyright, we must omit such material from the article. If you are unable to procure the rights without a time limitation, authors speak with your Production Editor.
- **Storage limitations:** It is important that you do not agree to any permission agreement that limits our right to store the content in electronic format. Look out for any terms in a rightsholders’ form that refer to “seat licences,” or refer to digital asset management systems. We must have the right to store all third party content on a digital asset management system.

Questions about digital circulation: A rightsholder may ask you how many copies of a book or a journal we expect to be sold in digital format. You should avoid providing any estimates to a rightsholder; these numbers

are difficult to estimate and, moreover, might involve sharing confidential information. Authors: please contact your OUP contact if these sorts of questions arise. **NOTE for OUP Book Editors:** It is *vital* that any time and print-run limitations are recorded in detail and flagged on the relevant permissions log to allow for timely re-application of rights upon the triggering event being reached. It is the editor’s responsibility to keep track of such expirations and re-apply as appropriate.

3.4 WHOM TO APPROACH

It is essential to receive permission from the *bona fide* rightsholder. The rightsholder is often *not* the original creator, as such creator may have granted rights to a third party.

For material that has been published, you should contact the publisher in the first instance, not the author. For unpublished material, you should start by contacting the creator of the material.

Common issues and how to address them are as follows:

ISSUE	GUIDANCE
Deceased author	Under US and Canadian law, if the copyright holder dies with a valid will, copyright will transfer pursuant to the terms of the will. If the copyright holder dies without a will, the transfer of rights will be pursuant to the relevant jurisdiction’s laws, which may vary from state-to-state. A good source in trying to locate the executor of an author’s estate is: http://norman.hrc.utexas.edu/watch/ . As well, in Canada, 25 years after an author’s death the full copyright interest in any work reverts to the author’s estate, even if a publishing contract would otherwise still be in effect. This interest may go to beneficiaries at that time, in accordance with a will, or be in the hands of executors or administrators. Unfortunately, tracking down estate beneficiaries and executors can be very difficult.
Company that is no longer in business	If copyright is owned by a company that has gone out of business, the copyright will be part of the assets of the company, and may be sold or otherwise by the company or its liquidator. Please refer to Section 4: Permissions Issues: When Rightsholders Cannot be Located (Including Orphan Works) for further guidance.
Works by an Employee with the scope of his/her employment	Where a creative work is made by an employee in the course of his/her employment, the employer will own copyright to the work, subject to any agreement to the contrary. It may be difficult to decipher whether it is an employer – as opposed to the creator— from whom you must obtain permission. Keep this in mind and work with your editor/manager as appropriate. Note that if a work is made by an employee in the course of his/her employment, the employee will not have the authority to grant you permission – such permission <i>must</i> come from the <i>bona fide</i> copyright holder (typically the employer, unless the employer has assigned the copyright to another party).

3.5 FEES (INCLUDING THROUGH THE INTERNATIONAL ASSOCIATION OF SCIENCE, TECHNICAL AND MEDICAL PUBLISHERS [“STM”])

There is no standardization to permissions fees; accordingly, fees may vary considerably between rightsholders. Many rightsholders have a non-negotiable minimum fee, which may be increased if additional

rights (such as multiple editions or formats) are requested. Therefore, it can be difficult to estimate permissions costs in advance.

Note that OUP is a member of the International Association of Scientific, Technical and Medical Publishers (STM) and signatory to the STM Permissions Guidelines. These guidelines encourage member publishers to grant other STM signatories permission to re-use material up to a certain limit on a (generally) *gratis* basis. Always consider whether you might be able to benefit from this arrangement. For more information see [Section 5: Sourcing Content](#).

OUP Book editors: Be aware that the Academic division in the US, the UK, and Canada have negotiated standing agreements with several stock image houses allowing for preferential pricing and agreed-upon terms. OUP editors can learn more about these agreements via <http://share.oup.com/group/grouplegal/SitePages/Design-Framework-Agreements.aspx>.

Negotiating Fees: Most rightsholders are prepared to negotiate fees; accordingly, do not take the initial quote as final. During the negotiation process it can be useful to mention:

- For book publishing, industry standards allow for at least a 1/3 discount off normal fees for academic and higher education works (however, note that not all OUP works fall into these categories; many image suppliers consider our trade titles, in particular, not to qualify for reduced rates).
- For journals publishing, industry standards usually allow for a discount off of normal fees as well, although the rate is variable.
- You may try to negotiate additional discounts if you are licensing several figures or other types of material from single course.
- OUP is a department of the University of Oxford, which is an exempt charity, and OUP USA is a US not-for-profit.

SECTION 4: PERMISSIONS ISSUES: WHEN RIGHTSHOLDERS CANNOT BE LOCATED (INCLUDING ORPHAN WORKS)

What if a copyright holder has gone out of business, cannot be found, cannot be identified, or does not respond to your requests for permission? In all of these cases, the material **remains protected by copyright**, regardless of the extent of your efforts– and, under current law internationally (which is a topic of much debate), the fact that you diligently tried to reach a rightsholder is insufficient to protect you in the event that you use the content and the rightsholder comes forward claiming an infringement.

4.1 WHAT IS AN "ORPHAN WORK"?

You may hear the term “orphan work” used in this context. If the copyright owner has been identified but does not respond to a request for permission, that does not make that work an “orphan work.” An “orphan work” is a copyrighted work for which the rightsholder cannot be identified and located by someone who wishes to use the work in a manner that requires permission. For the purposes of this document and the approach you should undertake when you are unable to identify or locate a rightsholder, do not worry too much over whether a work is a “true” orphan work. If you encounter the sorts of problems described in the first paragraph of this document, then the guidance below applies.

If you’ve identified and located the rightsholder, but s/he is non-responsive, that does not make the work an “orphan work.” What should you do in this circumstance?

- **Be persistent** – You might try politely re-checking with the rightsholder by several alternative means (email, mail, telephone, fax) and reaching out to a third party who may be able to establish contact with the rightsholder. Think about whether the rightsholder might belong to an organisation or association of some sort that might be able to contact him/her.
- **Consider using alternative materials** – ask yourself whether these specific materials are the only materials that will satisfy your goals. In many cases there are alternative materials that you can use that come from a copyright holder who *does* respond or materials that are in the public domain.
- But if, after persistent and diligent efforts, you receive no response from the rightsholder and do not believe that there alternative materials can be used instead, **authors, please refer to your OUP Contact/ OUP Editors, please consult with your managers for further guidance.**

As for orphan works (*i.e.* a copyright protected work the rights holder for which cannot be identified or located), some jurisdictions have created schemes to enable lawful licensing of orphan works, as set out below. However, the licences available under these schemes are likely to be too narrow for your intended use, as they will be geographically limited. Therefore, although you should be familiar with these schemes, in practice you should follow the procedures in the section titled “What should I do?” below.

In the UK, the UK Intellectual Property Office has operated an orphan works licensing scheme since 2014 (<https://www.gov.uk/guidance/copyright-orphan-works>). Under the scheme it is possible to obtain a license for a maximum duration of seven years and restricted to the UK only. This is likely to be too restrictive for our purposes.

In the US, no orphan works scheme exists. Where the proposed use goes beyond an exception, exemption, or limitation to copyright protection (e.g., fair use), there is no safe harbour under current US law. In the words of the US Copyright Office, “for good faith users, orphan works are a frustration, a liability risk, and a major cause of gridlock in the digital marketplace.” At this point, there has been no legislative solution to the “orphan works problem.”

In Canada, the Copyright Act provides a licencing mechanism when a copyright owner cannot be located after reasonable efforts have been made. An application can be made to the Copyright Board of Canada for a non-

exclusive licence on terms, including royalty, that are determined by the Board. Such a licence protects the applicant from a claim of copyright infringement, and the rightsholder can demand the royalties from the Board. The Board publishes a brochure setting out its requirements at <http://www.cb-cda.gc.ca/unlocatable-introuvables/index-e.html>. As with the UK scheme, the Canada scheme only offers licences for use within a restricted territory, i.e. Canada.

In India, when a copyright owner cannot be located, one can apply to the Copyright Board for a license and thereafter use the material once the Copyright Board grants the license, subject of course, to the terms of the license. Such a licence protects the applicant from a claim of copyright infringement. Further details are available in Chapter V of the Copyright Rules 2013 (<http://copyright.gov.in/Documents/Copy-Right-Rules-2013.pdf>).

4.2 WHAT SHOULD I DO?

If you cannot figure out who the rightsholder is or do not know whom to contact:

For US works:

- Perform a copyright search. If you cannot figure out who the rightsholder is, conduct a search of the records of the US Copyright Office (<http://www.copyright.gov/records>), which may list the current copyright claimant or other documentation that allows you to identify and locate the rightsholder. Note that the online database of the US Copyright Office contains records filed only from 1978 onward. To obtain earlier records, a search of the Copyright Office's paper files may be required; or you may search Google's database of the US Copyright Office's logs (<http://books.google.com/googlebooks/copyrightsearch.html>).

For UK works:

- There are no equivalent copyright office searches to conduct for works under copyright in the UK; however, there are organisations representing copyright owners who may be able to assist you in tracking down rightsholders of UK works:
 - **COPAC** (University Research Library Catalogue www.copac.ac.uk) while unable to give detailed rights information, will help to establish who the FIRST publisher of a title was.
 - **WATCH**—Writers, Artists and Their Copyright Owners (<http://norman.hrc.utexas.edu/watch/>) gives contact details of copyright owners of major authors and artists.
- **DACS**—Designers and Artists Copyright Society (www.dacs.co.uk) is the UK copyright licencing and collecting society for visual creators whose works are still in copyright - they represent 80,000 artists and you can check to see if the artist in question is on their database.
- Consider searching the sources mentioned in sections 4 to 9 of the IPO guidance for conducting a diligent search for literary works at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/474401/orphan-works-literary-works.pdf (ignore sections 1 to 3).

For Canada works:

- In Canada, the Copyright Board lists copyright collective societies that may hold the rights being sought: <http://www.cb-cda.gc.ca/societies-societes/index-e.html>.

For India works:

- In India, while there is no database that records copyright owners, one could consider applying to the Indian Reprographics Rights Society to see if they can assist for this purpose. The IRRO, as per its website (irro.org.in) is a society formed under the Copyright Act, 1957 to grant licenses in respect of any literary work in which copyright subsists, for reproduction (with limitations), on behalf of rightsholders.

If you still cannot locate the rightsholder:

- **Use alternative materials** – ask yourself whether these specific materials are the only materials that will satisfy your goals. In many cases there are alternative materials that you can use that come from a copyright holder you *can* locate, or a more cooperative rightsholder, or that are in the public domain.
- **Authors refer to your OUP Contact/ OUP Editors Conduct a risk-benefit analysis with your managers** – if you have diligently sought permission and considered your alternatives but do not want to choose alternative materials, authors should discuss the situation with your OUP contact/manager. OUP Editors, you should balance the benefit of using that specific content in your project against the risk that the rightsholder will come forward and assert legal claims. In considering the “benefits,” you should think about the importance of the material to your project, the importance of the project itself, and OUP’s mission of publishing and disseminating works that further our goal of excellence in scholarship and research. Among other things, with regard to the “risks,” you should think about the thoroughness of the search and your requests for appropriate permission. You should always consult with your manager when deciding whether or not the risk outweighs the benefit.

For all works: How can I mitigate risk if we opt to proceed without permission for use of an "Orphan Work"?

If you and your OUP contact (authors) *and* the appropriate Publisher/Editorial Director (OUP editors) decide that on balance it is worth taking on the risk associated with proceeding with the material without permission, make sure that you:

- Have documentation of your diligent, good faith efforts to obtain permission. A diligent search means that, as one step leads to another step, you should follow the train and explore the facts until you reach a dead end.
- For example, if you send numerous emails and/or letters to the rightsholders and third parties, print out these documents, and file them with your permissions documents for the relevant title. It may be useful to request return receipts in the event that a letter of inquiry is undeliverable. If you make phone calls and leave voicemails, create a “note to file” documenting these efforts. Authors should provide copies of all such documents to their editor.
- Understand and remember that, although your ability to demonstrate diligence may reduce the risk of liability, that risk will not be eliminated.
- Remember that further use of the material after publication, such as licencing it as part of the work for translation or other adaptation, may also infringe the rightsholder’s copyright. Further risk assessments will need to be undertaken at this stage.
- In certain circumstances, it may be appropriate to use a disclaimer in the publication. If you think that doing so is appropriate, please check with your OUP Contact (authors) or manager (OUP editors).

- A clear and sufficient attribution or acknowledgment of the material and the copyright owner should be included in the publication.
- Be prepared to respond very promptly and politely in the event that the rightsholder comes forward. In that case, authors: please contact your OUP contact immediately; OUP editors, please contact your Publisher/Editorial Director who will contact the Legal Department to make sure that we address the situation appropriately and put in place the appropriate paperwork.

***Note:** There are special considerations to take into account with regard to music publishing rights. Author: please contact your OUP contact (authors), and OUP editors please contact the Legal Department with regard to difficulties in locating rightsholders for music.

SECTION 5: SOURCING CONTENT

When sourcing content, always consider the importance of minimizing costs while obtaining the broadest possible uses for content. Consider using OUP-owned content; where doing so is not possible or practicable consider free or low-cost sources, such as ARTSTOR for academic titles.

5.1 MUSEUMS, ARCHIVES, AND STOCK IMAGE HOUSES

Museums, archives, libraries and stock image houses are good sources for third-party content; but note that while these entities may be able to supply you with the files you need, they are not always able to provide the copyright permission required for the use you envision. For example, a museum may supply you with a photograph of a sculpture and grant you permission to use that photograph; however, you may also need permission from the sculptor who created the sculpture depicted in the photograph. Even where the underlying work photographed is no longer under copyright, permission may still be required for use of the photograph itself (i.e., from the photographer). Similarly, an archive may supply you with manuscripts you request, but it may not own the copyright to the manuscripts, in which case additional permission from the copyright holder of the work may be necessary for your use.

Academic in the US, the UK, and Canada are currently parties to a variety of standing agreements with Stock Image Houses, which offer preferential rates and broad usage rights. These agreements are currently only available for use by OUP, not by our authors. OUP Editors, these agreements, along with instructions on how to use them are available here: <http://share.oup.com/group/grouplegal/SitePages/Design-Framework-Agreements.aspx>.

Note that images provided by museums and stock image houses may require model releases (see [Section 6: Model and Interview Releases and Patient Consent](#)).

Additionally, certain content may have two sorts of fees associated with use: (i) service fees or scan/reproduction fees, required for reproducing the content; and (ii) the permissions fees for using the content in the manner envisioned. The latter fee is more likely to be negotiable than the former.

Editorial vs. Commercial Use

Some stock image houses and other licensors may state that the permission is for “editorial use” only – and does not extend to “commercial use.” Although OUP is an academic publisher with charitable status, this does not mean that our *uses* always qualify as editorial. The test is whether the *use* is non-commercial.

- **Editorial Use:** Generally a use is considered “editorial” (or “informational”) where the image is used in a manner that informs or educates. For example, an image used alongside a scholarly

article or in the interior of a book, and which is tied to the underlying content, would likely be “editorial use.”

- **Commercial Use:** A use is likely to be considered commercial where an image is being used to sell a product or to promote something, for example in marketing and advertising. Use of an image on the cover of work *may* be deemed commercial—this will depend on the relationship of the image to the subject matter of the work. Where the image is closely tied to the subject matter of the book, and the book is an academic text on a matter of public interest, the use, even on the cover, is likely to be deemed editorial; this is less likely to be the case in journals publishing. Use on the cover of a textbook or trade book is less likely to be deemed editorial use. If you believe such use is editorial, please discuss with your editor/manager.

Royalty Free vs. Rights Managed

When you licence images from suppliers you may be given the option between “royalty free” and “rights managed” licences. Rights managed images will require a fee each time the image is used, whereas royalty free images require a one-time payment, after which point the image can be used multiple times, across projects (as permitted by the licence itself). Where possible you should seek royalty free licences over rights managed licences – doing so will allow for broader re-use in the future and is likely to afford savings in the long-term.

5.2 COPYRIGHT CLEARANCE CENTRE AND RIGHTSLINK

The Copyright Clearance Center (CCC) is a global rights broker and provides collective copyright licencing services for corporate and academic users of copyrighted materials.

RightsLink is a service provided by the CCC that facilitates permissions clearance for the reproduction and distribution of copyrighted materials on behalf of rightsholders who have opted in. RightsLink is accessed directly through participating publisher’s websites. The types of licences offered are determined by each individual rightsholder and may vary.

OUP editors: for a step-by-step guide on applying for permission to use third party material through RightsLink, please see [Requesting Permission through the Copyright Clearance Center](#). (Please be advised that this document was created by UK Medicine and some advice may be specific to that department, e.g., language rights information.) Authors: speak with your editor for more information.

5.3 PICTUREBANK AND THE DIGITAL ASSET MANAGEMENT SYSTEM

Book Editors should consider whether OUP’s in-house storage database PictureBank (www.oup.captureweb.co.uk) is an appropriate starting point for sourcing images. These images are either owned by OUP or permissions have already been cleared for broad re-use, and therefore there is no need to seek permission for use. OUP intends to launch a digital asset management system, which should be heavily relied upon when sourcing images once it is in use.

5.4 STM PUBLISHERS’ PERMISSIONS GUIDELINES

OUP is a member of the International Association of Scientific, Technical and Medical Publishers (STM) and signatory to the STM Permissions Guidelines. These guidelines encourage member publishers to grant other STM signatories permission to re-use material up to a certain limit on a (generally) *gratis* basis. **Note that this does not apply to use only in STM publishing, *per se*, i.e. this benefit is available for use in all OUP publications, including non-STM publications.**

A number of signatories have opted out of receiving formal permission requests, allowing other STM members to re-use certain content freely, provided that the re-use in question falls within certain parameters. Other publishers (including OUP, currently) have chosen to continue receiving express permission requests for re-use of their material.

Carefully review the STM publishers' website: <http://www.stm-assoc.org/permissions-guidelines> for the latest version of the guidelines, including a current list of signatories, information on which publishers require express permission requests, limitations on permissions granted, and a list of material exempted from these rules.

SECTION 6: INTERVIEW AND MODEL RELEASES AND PATIENT CONSENTS

What is a "Release?"

A "release" is an agreement by which a person waives the right to sue, which right may arise from a certain activity. It is prudent to obtain a release when using a person's name, image, or words in a manner that may otherwise trigger legal claims such as invasion of privacy or violation of the right of publicity.

Model Releases

Whether a model release is required depends on several factors: (i) whether the use is commercial or editorial; (ii) whether the person photographed had an expectation of privacy when the photograph was taken; and (iii) whether the subject is a sensitive one. If an image of an individual is to be used for commercial purposes (e.g., advertising, endorsements), signed model release forms must always be obtained.

In general, however, as long as the person being photographed did not have an expectation of privacy (e.g., was in a public space or knew s/he was being photographed) and the image is to be used for editorial/newsworthy purposes (e.g., in scholarly works), a release will not be required. In Canada, the use of such photographs taken in the Province of Quebec is more restricted, and written permission must normally be obtained for publication there. Only if someone is incidental to the photograph of a public event or place, or is some kind of public figure, can a photograph of a person taken in Quebec be safely used there without permission.

You must *always* obtain a release for images depicting individually identifiable children (which must be signed by a parent/guardian) or other potentially sensitive subjects/scenarios.

Interview Releases

Although it is not always required, it is sometimes advisable to obtain interview releases for the use of interviews or parts thereof in a publication to ensure that all parties are clear with regard to how the content is to be used. Where this is not practical or possible, it is often acceptable to use material from an interview without a signed release if the circumstances/the interviewer's notes clearly reveal that the source knew that the interview was being conducted for possible publication *and* the subject did not indicate any intent to restrict the use of the material. Note that where the use is of the sort that is likely to trigger a defamation or other legal claim (e.g., about a sensitive subject), it is advisable to obtain a release.

In addition to legal protections, oral historians observe specific protocols and ethical standards, which may dictate whether and what sort of releases should be obtained. Details can be found in the statement of principles and best practices on the Oral History Association website, <http://www.oralhistory.org/about/principles-and-practices/> and in John A. Neuenschwander, John A. *Oral History and the Law* (New York: Oxford University Press, 2009; 2nd edition forthcoming, 2014).

Patient Consent

Patient medical information is extremely sensitive and may be used only where there is clear and explicit consent. This means that *any* text or image that contains personal medical information about an identifiable individual, or that could be traceable to a particular individual, requires the patient's written consent (or the consent of his/her parent/guardian in the case of a minor). Given the sensitivity of this information and the rules (both legal and ethical) surrounding the use of such information, authors should always confer with your OUP contact before using patient information. Book authors and editors: Please refer to the [Guidelines on patient consent](#) and speak with the Legal Department if you have any questions. Journals authors: different journals have different guidelines, consent forms, and requirements, so please work directly with your Production Editor.

APPENDIX 1: OUP PERMISSIONS FORMS

Attached please find the following forms for your use.

1. [OUP Permission Request Form: Books – Images/Figures](#)
2. [OUP Permission Request Form: Book – Text](#)
3. [OUP Permissions Request Form: Journals – Images/Figures](#)
4. [OUP Permissions Request Form: Journals - Text](#)
5. [Model Release form](#) (See [Section 6](#) regarding when this form should be used).
6. [Interview Permission and Release form](#) (See [Section 6](#) regarding when this form should be used).

[INSERT OUP LETTERHEAD IF REQUEST IS FROM OUP]

RECIPIENT

ADDRESS

<<DATE>>

PERMISSION REQUEST

Dear _____,

We are preparing a work tentatively titled <<TITLE>>, by <<AUTHOR/EDITOR NAME>> which is <<INSERT GENERAL DESCRIPTION OF THE WORK, E.G. "A COLLEGE TEXTBOOK ON THE SUBJECT OF ENGINEERING">>. The work is scheduled for publication by Oxford University Press (OUP) in <<MONTH/YEAR>>.

I am writing to request your permission to reproduce the following material in this work:

TITLE OR DESCRIPTION OF FIGURE OR MATERIAL:

CREATOR/ARTIST:

COPYRIGHT YEAR, IF KNOWN:

[REFERENCE NUMBER, IF APPLICABLE:]

[FIGURE/TABLE/PAGE NUMBER, IF APPLICABLE:]

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APPENDIX 2: TERM OF COPYRIGHT – US

In the United States, the duration of copyright depends on a variety of factors, including, for example, whether the work is published or unpublished, when it was published or created, the date of publication, the type of work (e.g., sound recordings and architectural works have special rules) and whether certain registration formalities were adhered to. Below is a helpful table. A more complete and regularly updated resource is available here: <http://copyright.cornell.edu/resources/publicdomain.cfm>

Type of Material	Term of Copyright
Unpublished Works	Life of the author + 70 years
Unpublished anonymous/pseudonymous works, Works made for hire	120 years from date of creation
Unpublished works when date of author's death is unknown	120 years from date of creation
Joint authorship	Life of last surviving author + 70 years

You may be able to determine whether a work is in the public domain based on the date of publication and whether or not certain formalities were followed. Note that these formalities are no longer required under the US copyright law, but may still affect the copyright duration of previously published works. If you are not sure whether the work you intend to use is in the public domain, please search the US Copyright Office's online records (<http://www.copyright.gov/records>). If the work is listed in that database, assume that it is still under copyright. If the work is not listed you should investigate further (e.g., by looking to see whether the © symbol is used in conjunction with the work).

Date of Work	Formalities	Copyright Term
Published prior to 1924*	N/A	Copyright has expired – in the public domain
Published between 1924 and 1963	If published without copyright notice or if published with copyright notice but renewal registration not filed within 28 th year of publication	In the public domain
Published between 1924 through 1963	If published with copyright notice and renewal registration was filed within 28 th year of publication	95 years after date of publication
Published 1964 through 1977	If published with copyright notice	95 years after date of publication
Published 1978 to 1 March 1989	If published without copyright notice and not subsequently renewed	In the public domain

Date of Work	Formalities	Copyright Term
Published 1978 to 1 March 1989	If published without copyright notice but was subsequently renewed	70 years following the death of the author. If work made for hire, then 95 years from publication or 120 years from date of creation, whichever expires first
Created before 1978 but not published	None	Life of the author + 70 years or 31 December 2002, whichever is longer
Created before 1978 but published between 1 January 1978 and 31 December 2001	None	Life of the author + 70 years or 31 December 2047, whichever is longer
Created 1 January 1978 and later	None	Life of the author + 70 years

***For special cases including** copyright duration for unpublished sound recordings, copyright duration for architectural works, copyright duration for works published abroad, and special cases with respect to works published prior to 1924, please see: <http://copyright.cornell.edu/resources/publicdomain.cfm>

APPENDIX 3: TERM OF COPYRIGHT – UK

In the UK, the term during which content is protected by copyright law differs according to when and where the work was first published, if and when the author has died, the residence and nationality of the author, and the category of the work.

For UK Published Work of a UK Author

Type of Material	Term of Copyright
Literary, dramatic, artistic, and musical	70 years from the end of the year of the author's death
Photography	70 years from the end of the year of the photographer's death
Films	70 years from the end of the year of death of the last to die of the principal director, screenplay author, or music composer
Broadcasts	50 years from the end of the year of making
Typographical arrangements (i.e. the layout and general appearance of a page of a published work)	25 years from the end of year of publication
Anonymous Works	70 years from publication for a literary or artistic work

Joint authorship – Copyright in a jointly authored work will expire 70 years from the end of the year of the death of the last surviving author.

Unpublished Work

It can be difficult to work out the exact term of protection for unpublished works, but listed below are the general indications of what the term of copyright is likely to be:

Type of Material	Year of Creation	Probable Term of Copyright
Literary, dramatic, musical, and artistic works	Created ON or AFTER 1 January 1996	70 years from the end of the year of the author's death. Please note: Even if the work is only published for the first time in the last year of copyright protection, copyright will still expire at the end of that year.
Literary, dramatic and musical works	Created BEFORE 1 January 1996	Difficult to determine, however, it is likely that the term of protection lasts at least until the end of 2039.
Artistic works (excl. photographs, engravings and anonymous works)	Created BEFORE 1 January 1996	Life of the author plus 50 years after his death, but that term of protection may have been extended or revived from 1 January 1996.
All anonymous or pseudonymous artistic works (excluding photographs) and engravings	Created BEFORE 1 January 1996	Term of protection lasts at least until the end of 2039

APPENDIX 4: TERM OF COPYRIGHT – CANADA

In Canada, the term of copyright protection has been greatly simplified over the past two decades, and the standard term of 50 years from the end of the year of the death of the author or creator applies broadly across all types of works, including photographs and films. The exceptions are set out in the chart below.

The same rules apply to works made or first published outside Canada, whatever the author's citizenship or wherever the work was made or first published, provided that, at the time of the work was made, the author was a citizen, subject or ordinary resident of a country currently subject to the Berne Convention, Universal Copyright Convention, World Trade Organization or WIPO Copyright Treaty (amendment pending), or was first published to the public in one of those countries or the Commonwealth. In addition, the federal government can extend copyright protection to any other country on a reciprocal basis by ministerial notice. In short, copyright protection in Canada is available to just about anyone, anywhere. Only if a work was already out of copyright when the country involved joined the relevant convention or treaty, will Canadian copyright rules not apply. Further, Canada has adopted the "rule of shorter term" so that its term – most importantly for joint authorships – doesn't apply if nationals of another country (except US and Mexico) face a shorter term of copyright for the work in their own country.

Type of Material	Term of Copyright
All copyright works (subject to exceptions below)	Author's life, remainder of the calendar year of death, plus 50 years ("standard term")
Joint-authorship works	Life of author who dies last, remainder of calendar year of death, plus 50 years
Works by unknown author	Earlier of: <ul style="list-style-type: none"> from date of publication, remainder of calendar year, plus 50 years from making the work, remainder of calendar year, plus 75 years but if author's identity becomes commonly known during the term, then standard term applies (life plus 50 years)
Joint works by joint unknown authors	As above, except if one or more authors' identity becomes commonly known during term, then standard terms applies, based on whichever known author dies last (life plus 50 years)
Posthumously published works	<ul style="list-style-type: none"> if author died in period 1949-1998 and work exploited prior to 1999, continues through to date of publication to the public, remainder of calendar year, plus 50 years if author died in period 1949-1998 and work not exploited until after 1998, continues through to December 31, 2049 if author died prior to 1949, whenever work exploited, term expired December 31, 2004

Type of Material	Term of Copyright
Non-dramatic films (e.g. film of live events)	<ul style="list-style-type: none"> unpublished films – remainder of calendar year from date of its making, plus 50 years if published within term described above – remainder of calendar year from date of first publication, plus 50 years
Government works	<ul style="list-style-type: none"> all works prepared or published by or under direction or control of the federal or a provincial government, copyright belongs to that government (subject to any agreement with author) and continues from first publication of the work, the remainder of the calendar year, plus 50 years

APPENDIX 5: TERM OF COPYRIGHT – INDIA

Generally the term of Copyright in India is life of the author plus 60 years beginning of the calendar years following the year in which the author or, in the case of joint authors, last author dies. In the cases of anonymous or pseudonymous works, cinematographic works and sound recordings as well as government works, public undertakings (*i.e.* companies/organizations working for the government) and international organisations, the term is 60 years beginning the calendar year following the year when the work was published.

The Indian Copyright Act mandates that a foreign work cannot be given a greater copyright duration than an India work. In relation to countries whose term is less than the term of copyright in India, the Indian Copyright Order mandates that the term of Copyright in a work shall not exceed that which is enjoyed in its country of origin.

Type of Material	Term of Copyright
Literary, Dramatic, Musical or Artistic published within the lifetime of the author	60 years beginning of the calendar year next following the year in which the author dies
Joint Authorship as above	60 years beginning of the calendar year following the year in which the last author dies
Anonymous and Pseudonymous works	60 years beginning the calendar year next following the year in which the work is first published
Cinematographic work and Sound recording	60 years from the beginning of the calendar year next following the year in which is was published
Government Work/Public Undertakings/International Organisations	60 years from the beginning of the calendar year next following the year in which is was first published

USEFUL WEBSITES

US Copyright Office

www.copyright.gov

The US Copyright Office's website includes various circulars published by the US Copyright Office, which offer guidance on aspects of the US Copyright Act including, for example, fair use. The website also includes a searchable database that can be searched online for books registered from 1 January 1978 to the present.

Copyright & Fair Use, Stanford University Libraries

<http://fairuse.stanford.edu/>

The Stanford University Library has an extensive guide on permissions, copyright and fair use. The site includes primary case law, statutes, regulations and additional resources. Its emphasis is on copyright issues that are relevant to the educational community.

Cornell University's Copyright Information Center

<http://copyright.cornell.edu/resources>

Cornell University's Copyright Information Center is designed for use by Cornell faculty, staff and students. It includes a helpful document regarding duration of copyright in the United States, available here:

<http://copyright.cornell.edu/resources/publicdomain.cfm>

Writers, Artists and Their Copyright Holders (WATCH) at the Harry Ransom Center

<http://norman.hrc.utexas.edu/watch/>

WATCH is a database of copyright contacts for writers, artists, and prominent figures in other creative fields. It is a joint project of the Harry Ransom Center at the University of Texas, Austin and University of Reading Library in England.

The Oral History Association

<http://www.oralhistory.org/about/principles-and-practices/>

The Oral History Association provides guidance on best practices with regard to oral history interviews.

The National Archives

<http://www.nationalarchives.gov.uk/>

The National Archives is the UK government's official archive. The Controller of Her Majesty's Stationary Office at the National Archives manages Crown copyright and Crown database rights on behalf of Her Majesty the Queen.

International Association of Scientific, Technical & Medical Publishers (STM) Permissions Guidelines

<http://www.stm-assoc.org/permissions-guidelines>

STM is a global trade association for academic and professional publishers. Its aims and objectives include assisting publishers and their authors in disseminating the results of research in the fields of science, technology and medicine. To that end, STM has released permissions guidelines which apply to both book and journal content.

Copac

www.copac.ac.uk

Copac is a catalogue that provides free access to the merged online catalogues of many major university research libraries in the UK and Ireland, plus an increasing number of specialist libraries. Copac can be used to locate resources and bibliographic information. Copac is based at the University of Manchester.

DACS

www.dacs.org.uk

DACS is a not-for-profit visual artists' rights management organisation. DACS collects and distributes royalties to visual artists and their estates through rights management schemes including copyright licencing.

Creative Commons – List of Licences

<http://creativecommons.org/licenses/>

Creative Commons copyright licences are designed to offer creators a standardized way to grant copyright permissions to their creative works. This site includes an explanation of each of the standard Creative Commons licences.

Google Books Scan of the Catalogue of Copyright Entries

<http://books.google.com/googlebooks/copyrightsearch.html>

While the U.S. Copyright Office maintains a searchable database that can be searched online for books registered from January 1, 1978 to the present, the Catalogue of Copyright Entries can only be manually searched at the Library of Congress. Google has scanned 91 volumes of the U.S. Copyright Office Catalogue of Copyright Entries (including works registered from 1922 up to 1978).

Code Best Practices in Fair Use for the Visual Arts

<http://www.collegeart.org/pdf/fair-use/best-practices-fair-use-visual-arts.pdf>

The College Art Association's fair use guidelines, based on a consensus of professionals in the visual arts who use copyrighted images, texts, and other materials in their creative and scholarly work and who, through discussion groups, identified best practices for using such materials.

ADDITIONAL READING

Bielstein, Susan M. *Permissions: A Survival Guide. Blunt Talk about Art as Intellectual Property*. Chicago: University of Chicago Press, 2006.

Chicago Manual of Style. 16th ed. Chicago: University of Chicago Press, 2010, and online: www.chicagomanualofstyle.org. Both for citation style and general advice about permissions.

Goldstein, Paul. *International Copyright: Principles, Law, and Practice*. New York: Oxford University Press, 2001.

Neuenschwander, John A. *Oral History and the Law*. New York: Oxford University Press, 2009. Second edition forthcoming, 2014.