

Copyright Challenges and Solutions

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Summary

This article addresses some of the challenges faced by multinational pharmaceutical and healthcare businesses in managing copyright compliance as a result of the extensive and varied use of scientific information made by their employees, particularly those individuals working in medical information and/or pharmacovigilance roles. The article also discusses some of the solutions available for multinational companies to address these challenges, including recent updates to the Multinational Copyright License made available by RightsDirect and its parent organization, Copyright Clearance Center.

Introduction

Global business knows few geographic bounds. Employees of multinational companies exchange information on a daily basis with their colleagues, outside collaborators, customers and others, regardless of their location. Yet copyright obligations vary from one country to the next, creating a complex set of challenges for global organizations with employees working in multiple countries. From responding to medical information requests and excerpting articles for sales and training presentations to sharing the latest research findings from a journal with colleagues, the intersection of content use and copyright has the potential to expose organizations to unintended infringement risk as well as damage to reputation and brand. For those organizations that do comply with copyright, the effort to obtain copyright permissions individually can be inefficient and costly, especially where there is a high-volume of permissions needed on a routine basis. In this article I will explore some of the challenges pharmaceutical businesses face in managing copyright, and discuss ways for businesses to address those challenges.

What is copyright?

What is the intent of copyright and what is its impact globally? In general, copyright is a form of legal protection given to content creators (and their licensees and assignees) in the form of specific, exclusive rights to their creative

works that qualify for protection. Those rights include reproduction, distribution, the creation of derivative works, and display and performance.

The main goals of copyright are to encourage the development of culture, science and innovation by providing financial or other benefits (such as recognition) to copyright holders as an incentive for them to create and distribute their works and thereby to facilitate access to knowledge and entertainment for the public. Copyright provides the foundation for relationships between the different players in the content industries, as well as for relationships between rightsholders and the consumers of content, by allowing them to negotiate the terms for access to and use of copyrighted works.

Copyright is national in scope, meaning that each country has its own copyright laws. While there is no such thing as an international copyright law, there are international treaties – most significantly the Berne Convention, which has been ratified by more than 160 countries – that set minimum standards for the protection of copyrighted works under the laws of all participating countries. However, it is up to each country to determine how those treaties are implemented under their own national laws, and each country is free to set additional limitations or higher standards than those required by Berne, resulting in a very uneven (and difficult to navigate) cross-border copyright landscape.



A Copyright Clearance Center Subsidiary

Content is business critical

Sharing current research and product information is critical in pharmaceutical and healthcare companies. But this exchange of information among employees poses challenges for organizations in managing copyright compliance. Copyrighted materials are shared both internally and externally by and among various groups, each involving the intersection of content use and copyright compliance. Common use cases include:

- **The provision of medical information by Medical Affairs Departments in response to requests from healthcare professionals and patients**
Medical Affairs groups are often asked to supply their customers with scientifically-validated information, including full text articles from peer-reviewed journals. These customers can include patients, doctors and other healthcare professionals. Medical Affairs Departments support requests from various internal divisions in response to such information requests.
- **Maintaining comprehensive, up-to-date databases of company products by the Pharmacovigilance teams**
The Pharmacovigilance Department is responsible for the detection, assessment and reporting of adverse

effects relating to its company's products. These teams are also charged with maintaining databases of published information about company products in the market. Dissemination of timely information is a tool for early warning and detection of possible adverse effects, as well as for monitoring the safety of drugs in the development pipeline or already approved for marketing (e.g., sharing materials among an internal research team and management.)

What these use cases have in common is the ongoing need to distribute copyrighted materials to perform critical business tasks. From a copyright standpoint, these actions typically require the permission of the copyright holder – that is the publisher or author(s) of the content. From the standpoint of a medical affairs professional, information specialist or member of a pharmacovigilance team, the main objective (and a vital function of these professionals) is to deliver the requested content in a timely fashion.

Challenges of copyright compliance

The use of copyrighted content by medical information and pharmacovigilance professionals poses very concrete challenges related to the permissions clearance process. Below are some of the more common challenges:

- **The use of content use is generally difficult to supervise. Scientific content is available from many different sources, including the open Web, and digital technology has made it easier to access, reuse and share content, both internally with colleagues and externally with customers, collaborators and others.**
- **Employees often lack knowledge or have misconceptions about copyright law (e.g., "if it is freely available online then it must be free to copy, distribute and reuse for all purposes").**
- **Rights licensing options for Medical Affairs or Pharmacovigilance divisions are not always straightforward, easy or efficient.**
- **Given the vastly different copyright-licensing legal models from one country to the next, employees may unintentionally expose their organization to the risk of copyright infringement even by routinely sharing content with their colleagues in other offices.**

Current options to manage copyright compliance

There are a number of options for organizations to effectively manage compliance and build awareness with employees:

- **Content subscriptions - Licensing solutions that cover the desired works and types of use, offered directly by the rightsholders of the relevant publications**
- **Collective Management Organizations (CMOs) - Third-party organizations authorized by the rightsholders to grant licenses on their behalf CMOs exist in many countries and offer aggregated rights on behalf of their participating rightsholders. Licenses from these organizations may be either repertory (a blanket license covering a repertory of works) or transactional (pay-per-use)**
- **Transactional, pay-per-use licensing solutions.**
- **Rights and permissions information tools integrated with the company's information management systems or other content workflows.**
- **Copyright awareness and education programs to increase employee knowledge.**

Copyright compliance solutions for global healthcare organizations

The Multinational Copyright License from RightsDirect (the European subsidiary of Copyright Clearance Center (CCC)) simplifies copyright compliance by providing organizations with the rights to share content from millions of publications, across borders, while respecting the intellectual property rights of the authors and publishers of those materials (and furthering the aims of copyright). The license provides the freedom to share material from more than 12,000 publishers globally with a catalog of print and electronic publications, from journals, newspapers and magazines to books and blogs.

In addition to allowing internal storage, sharing internally by email, intranet or other means, government submissions and more, the Multinational Copyright License now includes 'responsive' rights (also referred to as 'unsolicited' or 'medical representation' rights), which allow companies to send single copies of articles in response to medical information requests from physicians, patients and other customers. While not intended for use in promotional materials or for bulk delivery of articles (which

must be separately licensed) these rights are invaluable to healthcare professionals who often need to provide important information to physicians and patients regarding their organization's products.

Importantly, the Multinational Copyright License is technology neutral – meaning that coverage extends across all devices, including iPads and other tablet PCs, making it easy for professionals to share vital content with colleagues and customers wherever they may be, so long as that sharing is within the scope of the license.

The Multinational Copyright License includes RightSphere® Basic, a Web-based rights advisory tool that allows employees to quickly check their content usage rights based on the coverage of their organization's license. Also included are copyright educational tools and resources to help licensed organizations build their employees' awareness of key copyright issues as well as the specific rights included in the Multinational Copyright License.

Copyright compliance is good business

Pharmaceutical and health services professionals depend on their ability to disseminate critical information to employees to accelerate drug discovery, keep physicians and patients informed about their products, and monitor the safety of drugs in the pipeline and in the market. Respecting the copyright of content creators ensures the continued flow of this vital information, demonstrates corporate responsibility and minimizes the organization's risk of infringement.

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References

1. May N. The State of Copyright in the Digital Age – What is a Publisher to Do? Outsell Inc., 2010; 17.
2. Neidorf R. Copyright Policies and Practices. FreePint, 2010; 17-18.

For further reading

- European Commission – Copyright: http://ec.europa.eu/internal_market/copyright/index_en.htm
- International Federation of Reproduction Rights Organisations: <http://www.ifrro.org/>
- WIPO - World Intellectual Property Organization: <http://www.wipo.int/portal/index.html.en>
- International Copyright Basics: http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html