

Getting the Goods Ethically

— Tip Sheet

MUSIC

MOVIES AND TELEVISION

PUBLIC DOMAIN

CREATIVE COMMONS

USER-GENERATED CONTENT

FAIR DEALING

One of the most common ethical decisions kids face online relates to how they access and use content like music, games and videos. We can help kids make better choices by teaching them about the issue: in one study, one-quarter of young people said that they would stop accessing content illegally if it was more clear what was legal and what wasn't.

How much do young people need to know about intellectual property? Under Canadian law, it is illegal to make copies of, upload or download copyright protected works like movies or music without permission from the copyright owner. Looking at it from an ethical standpoint, it comes down to a simple concept: before watching, listening or playing online media, we need to think about whether we're doing this in a way that shows respect for the people who made it and own it.

Given the confusion about what's ok and what's not ok to use, it's good to know when and where you can get music, movies and other media legally. Keep in mind that just because it's ok to use a site in one country, doesn't mean it's legal in Canada. If a site or service doesn't appear on one of the lists below, don't assume it's legitimate.

MUSIC

- Music Canada has a list of Canadian websites where you can legally stream and download music : <http://musiccanada.com/>
- Pro-music has a list of legal places to stream and download music around the world, organized by country. Here's their list for Canada: <http://www.pro-music.org/>

MOVIES AND TELEVISION

- The Motion Picture Association – Canada has a list of legal places to stream and download movies and TV shows: <http://www.mpa-canada.org/>

Most of these services only give you permission to watch or listen to what you're streaming or downloading. If you want to do more than that – for instance, if your child is looking for music to use as a soundtrack to a video for a school project – you need to check what's permissible under the *public domain*, *Creative Commons* and the *Fair Dealing* and *user-generated content* exemptions in the Copyright Act.

PUBLIC DOMAIN

A work that's in the *public domain* belongs to everyone – nobody can claim to own it. Here's how the Government of Canada defines the public domain:

Public domain refers to works that belong to the public. Works in the public domain can be used free of charge and do not require written permission from the author/creator.

Works can be in the public domain for a variety of reasons. Examples: the term of the copyright has expired, the work was not eligible for copyright protection in the first place or the copyright owner has authorized the public to use the work without permission or payment.

How long does Copyright last?

According to the Copyright Act, copyright in a work exists for the life of the author/creator, the remainder of the calendar year in which he is deceased plus fifty years after the end of that calendar year.

Some examples of works in the public domain are explained below.

Titles, names, slogans, short word combinations:

To be protected, a work must be something substantial. Sometimes an original and distinctive title can be protected.

Ideas:

Copyright protects the expression of an idea but does not extend to the idea itself. Until an idea is expressed in a fixed form (i.e. in print, electronic or digital media), there is no copyright protection.

Facts:

It is the way that facts are presented that is protected by copyright, not the facts themselves. For example, the facts in a magazine article are in the public domain. Anyone can use those facts as long as they do not copy how the author of the article has expressed them. As long as you use your own words, you will not infringe copyright.

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Expired copyright:

When the term of copyright protection ends or expires, works fall into the public domain. A work in the public domain is free for everyone to use without permission or payment of royalties. In Canada, you can even modify public domain works without permission.

<http://publications.gc.ca/site/eng/ccl/aboutCopyright.html>

The Internet Archive (www.archive.org) hosts nearly three million public domain videos and audio recordings, from vintage cartoons to modern podcasts. Here are some other great sources of public domain materials:

- Historical Stock photos <http://www.historicalstockphotos.com/>
- Public Domain images <http://public-domain.zorger.com/>
- The National Archives Experience <http://www.digitalvaults.org/>
- Public Domain Sound Effects <http://www.pdsounds.org/>

CREATIVE COMMONS

Any time you pay for media, you're actually buying a *licence* to use it and that license usually has limitations: for instance, buying a song gives you the right to listen to it, but not to use it as background music in a movie. Creative Commons licences let users access and use media for free under certain conditions. For example, an *Attribution* licence requires only that you acknowledge the work's creator; a *No Derivative Works* licence forbids you from altering the work when you use it; a *Noncommercial* licence means you can only use it if you won't be charging money for the final product; and a *Share-Alike* licence means you have to release the final product under the same Creative Commons licence. Works licensed under Creative Commons can be tremendously useful for young people who are looking for images, music and video to use in school projects or their own creative work.

Here are some great sources of works released under a Creative Commons licence. Make sure to help your kids check that the specific licence allows them to use it the way they want to (see here for an explanation of the licences: <http://creativecommons.org/licenses/>).

- Compfight lets you search the image hosting service Flickr for photos with Creative Commons licences. Make sure you select "Creative Commons" and "Safe" on the left side of the page before putting in your search term <http://compfight.com/>
- Opsound offers music tracks released under Creative Commons licences <http://www.opsound.org/>
- Sound Transit offers sound effects released under Creative Commons licences <http://turbulence.org/soundtransit/search/>
- The video hosting site Vimeo allows you to use "creativecommons" as a search tag in addition to any other tags you use (so you might use *creativecommons dogs* to find videos about dogs that you can use under a Creative Commons licence) www.vimeo.com
- Wikimedia Commons contains more than 17 million media files that are mostly released under a Creative Commons licence http://commons.wikimedia.org/wiki/Main_Page

USER-GENERATED CONTENT

Another important exemption is for non-commercial user-generated content, which “permits the use of legitimately acquired material in user-generated content created for non-commercial purposes. This applies only to creations that do not affect the market for the original material. Examples could include making a home video of your friends and family dancing to a popular song and posting it online, or creating a ‘mash-up’ of video clips.” <http://www.ic.gc.ca/eic/site/crp-prda.nsf/eng/rp01189.html>

Three things to think about are whether:

- it is being done for non-commercial purposes;
- the existing material was legitimately acquired; and
- the work that’s being created is not a substitute for the original material and does not have a substantial negative impact on the markets for the original material or on the creator's reputation.

Source: *Copyright Modernization Act – Background*

Industry Canada (http://www.ic.gc.ca/eic/site/crp-prda.nsf/eng/h_rp01237.html)

FAIR DEALING

Fair Dealing is the legal right that Canadians have to use copyrighted material without getting permission from the copyright holder. Six activities can qualify as Fair Dealing: research, private study, criticism, news reporting, parody and satire, and education. For more information on Fair Dealing, see the section on *Fair Dealing for Media Education* on the MediaSmarts website: <http://mediasmarts.ca/intellectual-property/fair-dealing-media-education>