

# Divine Worship and Copyright Law

June 1, 2020

## Contents

The legal dimension of copyright.	Page 3
What are the possible financial penalties for violating copyright law?	
The moral dimension of copyright.	
In the liturgy of the Church, what elements are copyrighted?	
How do I find out who owns the copyright of a creative work?	Page 4
<i>Musical compositions</i>	
<i>Readings in English from the Lectionary for Mass</i>	
<i>Mass texts and readings in Spanish</i>	
<i>Mass and other liturgical texts in English</i>	
Special “time sensitive” rules during the COVID-19 pandemic:	Page 5
Use of <i>copyrighted</i> texts or musical notation which require that permission be obtained	Page 7
“I thought churches in the United States were exempt from copyright law?”	
<b>ALSO NOT EXEMPT DURING THESE SAME SERVICES:</b>	Page 8
Copyright “flow chart”	Page 9
I think the song that I want to use is in the public domain. How can I be sure?	Page 10
What is ‘Creative Commons’?	
How does my parish obtain permission to use copyrighted works?	Page 11
You may attempt to obtain permission yourself. This process includes:	

**You may purchase an annual reprint license through a licensing company. Page 12**

**Licensing companies commonly used by diocesan parishes:**

**Limits to copyrighted work covered by annual licenses**

**Check to see if the song you want to use is covered, FIRST, before you plan on using it**

**Reporting usage**

**OneLicense *versus* CCLI Page 13**

**Which license company would be the best match for my parish?**

***OneLicense* Page 14**

**I make recordings of choir parts to help my choir learn their music. Do I need permission?**

***CCLI* Page 15**

**How do I indicate on a printed worship booklet or a podcast/livestream that the correct licensure needed for copyright permission has been obtained?**

**Livestreaming Advisories Page 16**

**“Selective muting”**

**Needing permission to record someone’s image**

**Other concerns:**

**Can I make a new arrangement of a copyrighted song?**

**We have lots of photocopies of choir music. What should I do with them?**

**What is a mechanical license? Page 17**

**I see songs, worship services, and the like posted on YouTube that don’t appear to have copyright permission. Why can’t I do the same?**

**Will I be protected by copyright law by claiming “fair use?”**

**My church uses backgrounds for projections. I often find great pictures on the internet. Am I free to use them?**

**Source material Page 18**

“Many published works are protected by national and international copyright laws, which are intended to ensure that composers, text writers, publishers, and their employees receive a fair return for their work. Churches and other institutions have a legal and moral obligation to seek proper permissions and to pay for reprinting of published works when required, even if copies are intended only for the use of the congregation.”

(no. 105, *Sing to the Lord: Music in Divine Worship*, © 2007, USCCB).

This information from our U.S. Bishops applies in spirit not only to reprinting copyrighted works, but also to livestreaming/podcasting them as well.

### **The legal dimension of copyright.**

Copyright is the legal protection given to creative works. Through copyright these materials become the exclusive property of those who create, publish or manage them. Those who use the material bear legal responsibility for obtaining any necessary permission. Usage of these works without the permission of those who own the copyrighted material is illegal.

#### **“What are the possible financial penalties for violating copyright law?”**

U.S. copyright law provides for the owner of copyright to recover damages ranging from \$500 to \$100,000 per copyright infringed. If willful infringement for commercial advantage and private financial gain is proven, criminal fines up to \$250,000 and/or five years imprisonment may apply.

A recent lawsuit: Yesh Music (Richard Cupolo and John Emanuele) filed a complaint on October 28, 2011, claiming that First Baptist Church Smyrna (TN) used two of Yesh’s compositions in videos streamed from their website. The complaint also details Yesh’s assertion that no license was granted for this use. Yesh is seeking \$150,000 for each infringement in addition to attorneys’ fees.

### **The moral dimension of copyright.**

Composers, arrangers and publishers rely on royalties provided to them through the use of the creative works they own. Without these funds, their ability to produce/provide future resources is impacted negatively. Requiring users to obtain permission for their use of copyrighted works helps to direct funds based on this usage back to those who legally own the works. Depriving these owners the funds due them is immoral.

#### **“In the liturgy of the Church, what elements are copyrighted?”**

- Musical compositions which are not in the public domain.
- Scriptural texts from the *Lectionary for Mass*.
- Texts and musical compositions contained in the *Roman Missal* or other liturgical rites of the Church.

Creative works are protected for 95 years (if published before 1978), or the life of the creator of the work plus 70 years if published after January 1, 1978.

## **“How do I find out who owns the copyright of a creative work?”**

### *Musical compositions*

- Separate sheet music/choir octavos
  - most often located in a notice at the bottom of the first page
- Music in hymnals:
  - usually printed in small type below the musical notation. This is often combined with “Acknowledgements” index in the back of the book, usually arranged by hymn number.
  - Be aware that the melody of the song or hymn is often copyrighted separately from the text or lyrics of the song or hymn.
  - It is somewhat common for the melody of the song or hymn to be in the public domain while more recently composed text or lyrics are copyrighted.

Copyright holders sometimes assign an “agent” to manage the copyrighted work. For instance this is true in the case of music published by Taize or the Iona Community, both of which are administered by GIA Publications in the U.S.

If no copyright information is present, this may indicate that the creative work is in the public domain, but the potential user must be sure that this is so.

### *Readings in English from the Lectionary for Mass*

© Confraternity of Christian Doctrine, Inc., Washington, DC.

### *Mass texts and readings in Spanish*

© United States Conference of Catholic Bishops, Washington, DC – Conferencia Episcopal Mexicana.

Proper texts and adaptations for the dioceses of the United States © United States Conference of Catholic Bishops, Washington, DC.

### *Mass and other liturgical texts in English*

© International Commission on English in the Liturgy Corporation [ICEL]

For some published church musicals and anthems, check the copyright page of the work.

Permission for some church musicals and anthems may be found in writing on the copyright page of the work, as long as the user prints or displays the appropriate copyright notice in some fashion.

Readings in English from the Lectionary for Mass  
Mass texts and readings in Spanish

Special “time sensitive” rules during the COVID-19 pandemic:

PERMISSIONS FOR USE OF **THE READINGS IN ENGLISH** AND THE MASS TEXTS AND READINGS IN SPANISH  
IN LIGHT OF THE COVID-19 PANDEMIC

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These policies apply only in the dioceses of the United States of America.

- **Through December 31, 2020**, no permission is required for livestreaming via social media of:
  - the readings in English from the Lectionary for Mass
  - both the Mass texts and the readings in Spanish,
  - the Divine Office.

As always, relevant liturgical law should be observed regarding the choice and use of texts.

- Gratis permission is granted to include these texts in a downloadable or print worship aid **through November 22, 2020** (the conclusion of the 2020 **liturgical** year). These texts must be reprinted verbatim and the appropriate **copyright acknowledgment** must be provided (see below).
- **Permission will not be granted to project the readings or other Mass texts.**
- Families and individuals are encouraged to bring their own participation aids (hand missals, seasonal or monthly booklets, etc.) to Mass. Parishes or other groups may wish to coordinate bulk purchase and distribution of such resources if local health restrictions allow.

Normally, outside of the COVID-19 pandemic :

Permission must be requested for any use exceeding 5,000 words from the Lectionary for Mass or any use which reprints more than 40% of the readings for a rite or season.

The official liturgical text must be followed. All excerpts must be verbatim from the text, including capitalization and punctuation. The poetic structure of those readings written in verse (for example, Psalms, Wisdom, Isaiah, etc.) must be preserved in verse as printed.

The appropriate **copyright acknowledgement(s)** for the texts used must be printed either beneath the reading(s) or with the other acknowledgements:

Excerpts from the *Lectionary for Mass* for Use in the Dioceses of the United States of America, second typical edition ©2001, 1998, 1997, 1986, 1970 Confraternity of Christian Doctrine, Inc., Washington, DC. Used with permission. All rights reserved. No portion of this text may be reproduced by any means without permission in writing from the copyright holder.

Excerpts from the *Misal Romano, tercera edición* © 2014 United States Conference of Catholic Bishops – Conferencia Episcopal Mexicana. Proper texts and adaptations for the dioceses of the United States © 2017 United States Conference of Catholic Bishops, Washington, DC.

The use of these texts in liturgical books and leaflets may require approval by the Secretariat for the Liturgy, a license agreement, and payment of a permission fee, regardless of the amount of text used.

## Mass texts in English

Copyrighted by the International Commission on English in the Liturgy

**Publications/livestreaming not subject to royalties.** No royalty is charged for reprinting ICEL translations in a publication for use at a specific Mass or celebration of an individual congregation or institution, for example: convention program booklets, jubilee Masses, ordinations, baptisms, first communions, confirmations, funerals, weddings, etc., provided that the following conditions are met:

- a. the publication is not produced by a publishing firm;
- b. the publication is not sold;
- c. the appropriate copyright notice appears on the cover, inside cover, or title page;
- d. the official editions of the texts are followed exactly.

**Regarding livestreaming.** ICEL's policy is that no agreement is necessary for any liturgy (streamed or recorded) in any circumstances, but the user must still follow the regulations of the local Bishops' Conference and Diocese. Copyright acknowledgement should be included in the usage.

**For the duration of the pandemic:** If you wish to put a transcription or guide alongside the recording, this is permitted (assuming the usual conditions about the text being reproduced correctly and the acknowledgement is placed somewhere appropriate).

**Copyright acknowledgment** includes: the name of the ICEL text, the copyright symbol, year of publication, ICEL's corporate title (may be abbreviated), and the phrase "All rights reserved." (Examples:)

Excerpts from the Roman Missal, only:

Excerpts from the English translation of The Roman Missal © 2010, International Commission on English in the Liturgy Corporation. All rights reserved.

An example of more than one ICEL text used:

Excerpts from the English translation of The Roman Missal © 2010, ICEL; the English translation of Eucharistic Prayers for Masses with Children © 1975, ICEL. All rights reserved.

### **Permissions required of ICEL for publishing firms**

Liturgical texts are made available to publishers without distinction, on a non-exclusive basis. All requests for permission should be directed to the ICEL Secretariat, 1100 Connecticut Avenue, NW, Suite 710, Washington, D.C., 20036, U.S.A. Phone: 202-347-0800; Fax: 202-347-1839; [permission@eliturgy.org](mailto:permission@eliturgy.org)

### **Royalties charged by ICEL to publishing firms**

Any publication produced for sale which contains ICEL translations is subject to a royalty or flat fee. Publications included are books, booklets, pamphlets, cards, diskettes, CD, and other electronic media used for liturgical celebrations or popular participation. Other publications containing ICEL texts but not for use during liturgical celebrations, such as textbooks, commentaries, religious education books and materials, private prayerbooks, recordings, etc. may be assessed a royalty or flat fee.

### Use of *copyrighted* texts or musical notation which require that permission be obtained

Whenever a copyrighted work is reproduced in any form, permission must be obtained, for instance:

- Reprinting them in:
  - Worship booklets/handouts
  - Programs for special services
- Projecting them on a screen
- Making an audio recording of them
- Making a video recording of them
  - Livestreaming/podcasting, for instance through such services such as YouTube or Vimeo
- Broadcasting

These usages all require that permission be obtained.

### “I thought churches in the United States were exempt from copyright law?”

According to U. S. Copyright Law (§ 110.3) only the following usages are exempt for churches, but only if they occur during the course of their worship services:

- performance of a **nondramatic** literary or musical work
- performance of a “dramatico-musical” work of a **religious** nature
- display of a work

(As long as the above usage takes place during the course of services at a place of worship or other religious assembly it is not an infringement of copyright.)

This applies both to live performance of these works and also to the playing of recordings of these works—but, again, only during the course of worship services.

- **EXEMPT**--the work used is nondramatic. The work then can be either:
  - religiousor
  - secular
- **EXEMPT**--the work used is “dramatico-musical” AND religious in nature.
- **NOT EXEMPT**--the work used is both “dramatico-musical” AND not religious in nature.  
(Examples of works such as these would be secular operas and musical plays.)

**ALSO NOT EXEMPT DURING THESE SAME SERVICES:**

- the reproduction of:
  - copyrighted texts alone or
  - musical notation with textsvia reprint or projection.  
Original assembly pew resources purchased from a publishing company may be used, of course.
  
- audio recording, video recording or livestreaming/podcasting.  
The exemption only applies to usage that occurs at the actual place and time of the worship service. It does not extend to “re-transmission” of the service and its contents.

If a church is producing and distributing video recordings or webcasting its services it will need an internet performance license, often referred to as an internet streaming license or a mechanical license for each copyrighted work included. This includes music, copyrighted readings, etc. It does not matter whether you sell the recordings or give them away for free.

- broadcasting on T.V. or radio  
If a church is going to have its services broadcast on T.V. or radio, the broadcast stations will need to have a performance license. [Broadcast license.]

Examples of usage which fall outside of the course of a church’s services:

- a non-worship concert
- retreats
- dances
- carnivals and festivals

Because of the “non-worship” nature of these instances, churches engaging in them have the same copyright responsibilities as a restaurant, business or stadium.

Christian Copyright Solutions [CCS] is a licensing company that provides coverage for using copyrighted music for events such as these. [Performance license.]

Provides churches and ministries with a license for the performance of live and pre-recorded music taking place outside of live worship services in their facilities.

## Copyright “flow chart”

Does your parish

- reprint music or texts in worship booklets or handouts (including any music or texts that are also contained in your purchased, published pew resources),
  - **“We have hymnals in our church. Because we own these books, aren’t we free to reprint from them for special liturgies requiring a worship program such as a wedding, funeral or another special occasion?”**  
Even though you own these books, reprint permission is still required for these occasions. Also, always consult the copyright acknowledgement section to see whether permission needs to be sought from an agency or publisher other than the publisher of the hymnals you own.
- project music or texts onto a screen,
- livestream or podcast your parish Masses online?

**If yes,**

continue at **“A”** below.

**If no,**

(because you only sing music from your published, purchased pew resources and you do not livestream or podcast your liturgies) then your usage is within copyright law and no additional permission needed.

**“A”**

Is the musical notation and/or texts you use in your worship booklets/handouts/projections/livestreaming generally written after the 1920’s?

**If yes,**

you’re using music and texts that are most likely copyrighted and you’ll need permission to reprint/project/record it.

Continue at **“B”** below.

**If no,**

you're probably using materials that are considered to be in the "public domain" and so are not owned by anyone.

No permission is needed to use materials that are not copyrighted (in the public domain) or whose copyright grants specific, usually non-commercial use (in a "creative commons.")

A list of public domain English hymns can be found at  
<https://musicasacra.com/music/english-hymns-in-the-commons/>

It is inadvisable to make the assumption that a work is in the public domain due to the lack of copyright information.

**"I think the song that I want to use is in the public domain. How can I be sure?"**

While the lack of a copyright notice can indicate that a song is in the public domain, it is a good idea to check further. Generally, music published in the United States before 1922 is in the public domain—however:

- A specific composer's newer arrangement of a song whose melody is in the public domain may be copyrighted.
- A newer text (set of lyrics) that has been set to a song whose melody is in the public domain may be copyrighted.

CCLI, a licensing company described below, advertises a free "Public Domain" account which includes features of its paid "SongSelect" product but limited to non-copyrighted songs within the public domain.

**"What is 'Creative Commons'?"**



This symbol marks works that are governed by Creative Commons licensure.

Creative commons complements regular copyright, allowing people who make creative works ("licensors") to maintain copyright over their works, while allowing others ("licensees") free use of them, such as:

- Copying
- Distributing
- Editing
- Remixing
- Building upon

Specific allowable uses depend upon how the licensor has set up the Creative Commons license covering the work. (For instance, a common restriction is that the work may only be used non-commercially.)

Creative Commons licensure:

- ensures that creators ("licensors") receive credit for their work
- is applicable world-wide
- expires only when applicable copyright does.

Anyone who uses work covered by a Creative Commons license:

- must credit the person who made the creative work,
- keep copyright notices intact on all copies of the work
- provide a link to the Creative Commons license from copies of the work.

“B”

**How does my parish obtain permission to use copyrighted works?**

“B1”

**You may attempt to obtain permission yourself. This process includes:**

- Finding out who owns the copyrighted work
- Contacting them and asking for permission to use the work
- If permission is granted, this usage often requires that a fee be paid to the owner
- As part of your usage, acknowledgement must:
  - identify the creative work,
  - name its author or composer,
  - include the date of copyright and the copyright owner (often the publisher),
  - state the fact that permission for use was granted.
  - Often the phrase “All rights reserved” is included.

Because permission needs to be granted before usage, this needs to be completed prior to the liturgy taking place—usually the more prior the better.

An internet search may produce the contact information for the composer and/or publisher. Major music publishers may be contacted by phone or email for permission requests. Some composers have their own websites and/or a Facebook pages which can be useful avenues for contacting composers not managed by a major publisher.

This process is time consuming and can be frustrating.

## **“B2”**

**You may purchase an annual reprint license through a licensing company.**

Music licensing companies help parishes access the copyright permission needed to reprint or project music, podcast or stream liturgies which include copyrighted music and create audio tracks for rehearsals.

### **Licensing companies commonly used by diocesan parishes:**

Permission to reproduce copyrighted liturgical music may be obtained through companies such as these:

- OneLicense
- Christian Copyright Licensing International [CCLI]

**Although licensing companies try to make their products as useful as possible to their customers by including large portions of the musical repertoire commonly used in Catholic worship—not all titles will be included in the permission you are purchasing.**

### **Limits to copyrighted work covered by annual licenses**

#### **Reprint**

Just because a song you'd like to use appears in a certain publishing company's hymnal doesn't mean your annual license will automatically include permission to use it.

#### **Livestreaming**

Sometimes the license will cover reprinting the creative work, but will not include permission for livestreaming it.

Because of this you may find that a particular copyrighted work may be unavailable for use.

### **Check to see if the song you want to use is covered, FIRST, before you plan on using it**

In order to determine if your license will cover the use (either reprint or livestreaming) of a particular song, a search should be performed on the respective company's website prior to it being included in liturgical planning.

If the use of a desired song is not covered by your license but feel as if you still need to use it, it may be possible to obtain permission on your own (see “B1” above). However, this can be time consuming and doesn't always work smoothly.

### **Reporting usage**

Remember, the only way that the copyright holder gets paid when you use a license is for you to report the usage of the song to the licensing company. Please report your song usage as required by your license.

## OneLicense *versus* CCLI

### Which license company would be the best match for my parish?

What music do you typically reprint, project, or record/livestream/podcast/broadcast?

- If you use CCLI top 100 music (and things that generally sound like those songs from companies like Capital, Integrity, Hillsong, Bethel, Elevation, etc.), a CCLI license might be best.  
[For a list of publishers covered by CCLI, click here.](#)
- If you use music that is more “hymn-like,” is specifically Roman Catholic (and things that generally sound like those songs from publishers like Hope, GIA, OCP, etc.), you may be best with licensure through OneLicense.  
[For a list of publishers covered by OneLicense, click here.](#)
- If you use both types of music regularly, you may need both licenses.
- If you aren’t sure, you may need to spend some time comparing your parish repertoire with the online lists of songs provided by each company to see which may be the best fit.

Again, before signing up for either, make sure you check your usual parish repertoire against the repertoire listed on their respective websites.

## **OneLicense**

<https://onelicense.net/>

Many major companies who publish music suitable for Roman Catholic worship have joined together under a single licensing agency: *OneLicense*.

- GIA Publications / World Library Publications [WLP]
- OCP Publications,
- Morning Star Music Publishers,
- Liturgical Press,
- Selah

and many more.

A visit to their website will give a current list of the publishers associated with One License.

OneLicense's reprint licenses only cover the usage of congregational parts (print or projection). They do not cover permission to copy choral scores, instrumental parts or accompaniments.

If you already have a OneLicense reprint license and your parish has been livestreaming copyrighted materials you may arrange to add-on additional coverage for livestreaming/podcasting the video to social media, your parish website, etc.

Pricing is based on average weekly attendance in your church building. As a general rule, the additional livestream/podcast license allows for the videos posted to have up to three times as many views as the highest number in your attendance category.

However, you will need to check each title to make sure that it is covered by the license. Just because reprint may be covered, it doesn't always follow that permission for livestreaming/podcasting is covered as well.

### **"I make recordings of choir parts to help my choir learn their music. Do I need permission?"**

Yes, there is a new Practice-Track License now available for purchase from One License based on the size of your congregation. This is a separate license apart from a reprint license. Like reprint licenses, not all music is covered by this license.

## **CCLI**

<https://us.ccli.com/>

Another licensing resource is CCLI. This agency offers copyright licensing, rehearsal licensing, church streaming and podcast licensing, church video licensing, and a product called SongSelect.

Their Church Copyright License covers things like:

- printing songs in bulletins, liturgies, programs and song sheets,
- printing songs in bound or unbound songbooks
- making overhead transparencies, slides or using electronic storage and retrieval methods for the visual projection of songs
- printing customized vocal and/or instrumental arrangements of songs, where no published version is available
- translate songs into another language where no published version is available
- record songs in church worship services by either audio or audio-visual means

CCLI, also advertises a free “Public Domain” account which includes features of its paid “SongSelect” product but limited to non-copyrighted songs within the public domain.

See their website for more information.

## **How do I indicate on a printed worship booklet or a podcast/livestream that the correct licensure needed for copyright permission has been obtained?**

The specific wording is set by the licensing company. This often includes:

- identification of the creative work including its title
- the name its author or composer,
- the date of copyright and the name of the copyright owner (often the publisher),
- inclusion of the name of the licensing company granting permission for use along with your customer permission code
- the phrase “All rights reserved” is often included.

*Ways to include copyright acknowledgement in a livestream:*

- List the copyright information and along with any required licensing verbiage:
  - directly in the video (like a slide or text on the screen)
- or
  - in the description text field of every video.

When livestreaming and/or posting a pre-recorded Mass/Liturgy that includes copyrighted music, the license number must appear either on your video or in the description. The podcast / stream must include the following words at the end of the service, in the video description, or on the website containing a link to the podcast / live stream: "Permission to podcast / stream the music in this service obtained from ONE LICENSE with license #A-000000 (insert parish license number). All rights reserved."

## **Livestreaming Advisories**

### **“Selective muting”**

If your parish does not have a license, another way to avoid copyright transgressions would be to edit the video by muting any copyrighted music when the liturgy is made public.

### **Needing permission to record someone’s image**

There are those who might object to having their image recorded, livestreamed or broadcast without their permission. For this reason, when you are livestreaming Mass, it is best to keep the frame focused on the ministers in the sanctuary rather than filming members of the assembly.

Two liturgies that may pose special problems along these lines: weddings and funerals. Footage of the couple in procession and of the priest receiving the body would likely include members of the assembly in the frame.

To avoid problems in this area, post a notice such as the one below, informing attendees that recording, livestreaming or broadcasting will be taking place during the liturgy.

This Mass is being recorded for those who are not able to attend in person. Please be aware that by attending this liturgy you acknowledge and consent that you may be recorded during this event.

Esta Misa se está grabando para aquellos que no pueden asistir en persona. Tenga en cuenta que al asistir a esta liturgia usted reconoce y acepta que puede ser registrado durante este evento.

### **Other concerns:**

#### **“Can I make a new arrangement of a copyrighted song?”**

Permission to alter a copyrighted work, such as the creation of a new arrangement, must be sought from the copyright holder. Selling the arrangement will require the arranger to work with the copyright owner for proper licensing and the payment of royalties.

#### **“We have lots of photocopies of choir music. What should I do with them?”**

Unless you obtain permission, photocopied music is usually illegal.

One exception would be if a title was listed as “out of print” on a publisher’s website. In that case, the publisher might grant permission to reproduce a song for a reduced fee and permission should be indicated on the photocopies — but remember to ask the publisher first. It is always advisable to keep a copy of the correspondence granting permission. Even in a situation where you didn’t photocopy the music yourself, if your church is in possession of or distributes illegal copies, you could be faced with a claim of copyright infringement. Illegal copies of music and other copyrighted material should be destroyed immediately—EXCEPT if you are currently aware of a copyright infringement claim, allegation, or dispute. In that case, you may NOT destroy copies or other evidence and should consult legal counsel immediately.

**“What is a mechanical license?”**

A mechanical license grants permission to record and distribute a copyrighted work. It does not apply to reproducing and distributing existing recordings, performing music in a concert setting, or any other copying. A fee, set by law, is charged for each recording that is made. The current mechanical license fee is 9.1 cents per song or 1.75 cents per minute, whichever is greater. This rate applies to records and downloads.

**“I see songs, worship services, and the like posted on YouTube that don’t appear to have copyright permission. Why can’t I do the same?”**

There is nothing preventing people from breaking the law. Still, any copyright owner is free to seek damages if they find their work being used illegally.

**“Will I be protected by copyright law by claiming “fair use?”**

“Fair use” is a defense to copyright infringement, and does not apply to most typical uses of music by churches. Generally, it is intended for those who wish to reprint a single copy of a copyrighted work or portion of it for comment, scholarship, teaching, etc., in a way that does not affect the market for the sale of the work. You will likely not be able to defend on the basis of “fair use” for the performance, duplication, or recording of a copyrighted work. Whether a use of a copyrighted work may be considered “fair use” is a very fact-specific analysis and changes on a case-by-case basis. If you are contemplating using a copyrighted work without permission under “fair use,” you should get assistance from legal counsel.

**“My church uses backgrounds for projections. I often find great pictures on the internet. Am I free to use them?”**

Images, like other creative works, are often protected by copyright. Just because it is posted online does not mean that it is free from copyright. If you cannot locate the copyright owner (or cannot ensure that a Creative Commons license covers your intended use of the image) you most likely should not use the image.

## Source material

Copyright and Churches  
Archdiocese of Cincinnati  
Office for Divine Worship and Sacraments  
& the Archdiocesan Music Committee,  
March 2017

Liturgical Music: Copyrights, Licensing and Permission for Use  
By Fr. Matthew Ernest, Archdiocese of New York  
August 30, 2016

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<https://www.startchurch.com/>

Six Myths About Copyrights That Put Your Church at Risk  
Christian Copyright Solutions  
<https://christiancopyrightsolutions.com/blog/6-myths-about-copyrights-that-put-your-church-at-risk/>

Yes, You Need a Music License to Livestream Catholic Mass  
eCatholic  
<https://ecatholic.com/blog/music-copyright-live-streaming>

Joseph Livingston  
Administrator of Copyright Permissions  
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