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Who owns YOUR pictures?

What's this all about?

Instagram, Facebook, Twitter, Flickr (and more) all have access to your data and your photos.

If you think you own the rights to your own images, you may be wrong.

If you think you can licence from these (or their agents) you may still be wrong.

So who actually owns the pictures that you post?

And what about other companies that make a grab for rights?

(that includes many of the biggest global image brands)

And can you, as a buyer, licence these in good faith?

Why should I care?

- Users of social media may have unwittingly lost their exclusive copyright
- Social media platforms consistently revise terms of use
- Citizen journalism is not free of copyright
- Your top suppliers may be selling you rights they don't own
- Syndication-proliferation can easily lose the thread to the Rights Owner
- There is no such thing as a free lunch

Instagram was seen as a great photo-share platform by its users and its popularity skyrocketed. So Facebook bought it. And then expected to own everything on it – your pictures included.

The outcry shamed Facebook into a climbdown (much like their no-opt-out changes in terms and conditions in the past). But for how long? Rights grabbing remains high on global corporate agendas.

Where internet giants operate in a lawless environment, or one in which they appear to set the law (Google books etc.), ownership and copyright are consistently under attack, no less than your personal data.

But they are not alone. Many global media operators have taken similar advantage in the content-is-king economy to buy up collections and/or syndicate content and/or appropriate content by contracts hidden from the original pre-internet copyright owners.

And the original rights owners are increasingly litigious. As Agence France Press, Conde Nast, Corbis, Getty, National Geographic – even the British Library – have found to their cost when facing difficulties acquiring rights for licensing and/or rights grabs that have resulted in prolonged legal actions. Awards are most frequently in favour of the photographer/copyright originator.

Today, millions of pictures are added to online collections daily. These get syndicated instantly to your suppliers, who you may have imagined were outside of such a questionable chain. So who knows for certain the provenance of every picture they sell rights to and what rights they hold? There's the rub that irritates every licensor! Checking rights is critical – but don't believe all you read in licensing agreements, or indemnities, or disclaimers.

Conclusion

- Beware bearers of gifts (they may have no right to them)
- Is that cheap/free image worth the thousands you would pay for any infringement?
- Supplier indemnity may offer you no protection in practice
- Check the rights terms thoroughly
- Ask if your supply chain is really as robust as you think (many large publishers streamlined supply in order to eliminate risk, only to let in big syndicators through the back door, every bit as risky as the guys – maybe even the same guys – they thought they had eliminated.

Richard Philpott
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Please call me on +44 20 7267 9990 if you would like to discuss any of the above

Richard Philpott
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