

Social media can provide many advantages for artists and creators such as exhibition distribution and the sale and promotion of work, however it can also bring some legal disadvantages when it comes to copyright.

Social media platforms have Terms of Service which a user must agree to at the time of signing up in order to use the platform. It is important that users, particularly artists, understand the implications of these agreements which they are contractually bound to follow once they have opened a social media account.

Social media platforms such as Facebook, Twitter, Instagram, and YouTube all have user Terms of Service which include clauses related to copyright ownership of any material that is uploaded to the platform. These terms and conditions usually state something along the lines of:

For content that is covered by intellectual property rights, like photos and videos (IP content), you specifically give us the following permission, subject to your privacy and application settings: you grant us a non-exclusive, transferable, sub-licensable, royalty-free, worldwide license to use any IP content that you post on or in connection with Facebook (IP License).

(Facebook Terms of Service)

By the platform holding a non-exclusive royalty free license of any images and videos uploaded to the platform they are being given the right to use and distribute these images for any purpose they see fit without the permission of the copyright holder of any licensing fee being paid. It should also be noted that a 'transferable' and 'sub-licensable' license means the license can be transferred or sub-licensed to any other individual or company without your knowledge and without your permission. Essentially the copyright holder (the artist) is giving up some of their moral and economic rights to copyright in images and video that is uploaded to social media platforms.

Artists must weigh up the risks of this disadvantage of using social media with the marketing advantages. Artists can of course make educated choices about which images they upload to social media platforms, and, as with all images of work being posted to a website, it is recommended to use small images to limit the ways in which the image can be used by others.

Social media platforms that require the user to assign all copyright rights of any images or videos uploaded to the platform should be treated with caution.

Many social media users believe that images published on social media platforms are in the 'public domain' and therefore can be used without the permission of the copyright holder. This is incorrect, as copyright in the work still exists with the copyright holder and a license has only been granted to the platform to use the image, not other users.

Publishing images on social media of which you are not the copyright holder is also an infringement of copyright. The Terms and Service agreed to at the time of signing up to the social media platform also cover the protection of other people's Intellectual Property, users agree to not post content that infringes someone else's rights. If an image of your work appears on a social media platform without your permission you can report the infringement to the platform and they will follow their Terms of Service and Policies when taking appropriate action. Action may include removal of the image and/or suspension of the infringer's account.

Further information

Arts Law Centre of Australia

<https://www.artslaw.com.au/info-sheets/info-sheet/social-media-for-artists/>

Legal Aid NSW

<http://www.legalaid.nsw.gov.au/publications/factsheets-and-resources/online-social-networking-copyright>