Copyright: Don’t Care was Made to Care

Mark Walford
Or rather:

Copyright: However much care you take, sooner or later you’ll get caught out
The Challenge for Publishers

• We don’t produce much of ‘our’ content ourselves
• The content producers have varying knowledge and interest in copyright
• Those content producers also use content from other content producers
• Record keeping is never perfect
Charles Oppenheim’s risk equation

- Four factors
- Each between 0 and 1
- If any one factor is 0, then risk is 0
Charles Oppenheim’s risk equation

\[ \text{RISK} = \text{How illegal was the use?} \]
Charles Oppenheim’s risk equation

Photos from Abu Ghraib Prison

RISK

How illegal was the use?
Charles Oppenheim’s risk equation

RISK = How illegal was the use? \times How likely is it to be discovered?
Charles Oppenheim’s risk equation

Plagiarism of a whole page from someone else’s article

RISK = How illegal was the use? × How likely is it to be discovered?
Charles Oppenheim’s risk equation

\[ \text{RISK} = \frac{\text{How illegal was the use?}}{\text{How likely is it to be discovered?}} \times \text{How likely is the rightsholder to sue?} \]
Charles Oppenheim’s risk equation

RISK = How illegal was the use? × How likely is it to be discovered? × How likely is the rightsholder to sue?

Author only gave previous publisher permission for print publication, not electronic
Charles Oppenheim’s risk equation

RISK = How illegal was the use? × How likely is it to be discovered? × How likely is the rightsholder to sue? × How (potentially) financially damaging was the use?
Charles Oppenheim’s risk equation

How illegal was the use?

How likely is it to be discovered?

How likely is the rightsholder to sue?

How (potentially) financially damaging was the use?

Daily Mail cartoon from WW1 included in scanned version of article in an aggregator database
How do we navigate it all in practice?

• Try to keep good records
• Conduct risk assessments when we’re not sure
  • Understand the basis of copyright exceptions, and don’t ask for permission where we know we don’t need it
  • Use the Oppenheim risk equation when we’re not sure
• Hold our hand up when we get it wrong
• Do our best to put things right, and learn from the experience
Thank you

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What we did

• Abu Ghraib – we published without permission. No-one complained

• Plagiarism of a whole page: author plagiarised complained within 24 hours of publication – we retracted the article, career of plagiariser was damaged

• Electronic publication without permission – we settled for a four figure sum, even though it wasn’t our fault

• Daily Mail cartoon – persuaded the aggregator to remove the image, paid £12.40 compensation to author