

With all of the struggles and controversies surrounding the news industry these days, there is a lot of confusion out there about what falls under fair use and what doesn't. The more savvy bloggers who have been in the game for a while usually have a better grasp on the concept, but there are still plenty of others who aren't so well versed. After all, anyone can start a blog, and not everyone comes from a news or legal background.

Do you every worry about quoting major media sources? [Discuss here.](#)

At SXSW last month, WebProNews spoke with Pat Aufderheide, the Executive Director for the [Center of Social Media](#) at American University, who has worked with the university's law school on developing best practices for fair use, and Attorney Michael Donaldson of the law firm [Donaldson & Callif](#).

"Fair use is part of copyright law, and it says you have the right to use other people's copyrighted material without licensing it, without paying for it, or even asking them permission under some circumstances," said Aufderheide. "The law itself is rather vague, so the question is , 'how do you interpret that law?'"

Good thing we had a lawyer present. "Fair use is rooted in the first amendment," said Donaldson. "So if you're telling a story, and you need or want, and it's reasonable to use little pieces of other people's stuff to tell that story, that's protected as a first amendment right."

"If you keep in mind the first amendment origins of fair use, you'll have a good starting point," he added.

According to Aufderheide, one thing judges will ask is "did you use this for a different purpose than the original or are you merely taking something that somebody's actually selling, and getting it for free?" Basically - are you taking market value from them?

In the case of news and blogging, she says some of the traditional media sites have legitimate issues legally, but not always. She equates a great deal of the pushback from traditional media to hysteria over a dying business model. If you take a whole article from the Washington Post for example, and put it on your site, you're taking what belongs to them and taking market value from them. This is basically plagiarism anyway. On the other hand. However...

"Bloggers have a perfect right to quote in context, and to say 'the Washington Post said this' and 'here's how the Times covered it', and here's a link to the whole article if you want to look at that," says Aufderheide. "And they have a perfect right as well to quote pictures, images, and to link to video on a commercial site that is producing that stuff, once again within context. What is it that they're doing that is different from the original site? And then I think bloggers are doing just fine, and they're employing their fair use rights just like scholars do every day when they quote several previous scholars and write in their articles that these previous scholars didn't know what they were talking about when they said x, y, and z, and I'm right."

Donaldson added that "there's no first amendment right to steal something and make money off it," and to just keep in mind those 1st amendment origins of fair use law.

Watch [the video](#) above for a great deal more insight into the fair use issue.