



Documentarians, Fair Use and Best Practices

National survey of 489 documentary filmmakers, summer 2014

Based on research by Aram Sinnreich, Rutgers University, and Patricia Aufderheide, American University.
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TAKEAWAYS

- **Documentarians have embraced fair use since the 2005 creation of the *Documentary Filmmakers' Statement of Best Practices in Fair Use*.**

70% say they have “good” or “excellent” understanding of fair use.

75% think fair use is “absolutely necessary” or “very useful.”

- **Fair use is widely accepted within the business.**

60% just recently used it in a production.

95% never had a problem with a broadcaster accepting fair use, with a lawyer’s letter.

99% never had a problem with insurance, with a lawyer’s letter.

- **Attitudes about fair use are positive, strongly associated with free expression and creative opportunity.** Favorite words associated with fair use:

<i>Free</i>	<i>Freedom</i>	<i>Necessary</i>	<i>Public</i>
<i>Free speech</i>	<i>Misunderstood</i>	<i>Reasonable</i>	<i>Creativity</i>

- **Where filmmakers have changed work because of copyright concerns, it’s often for non-fair use reasons.** But when it is, the most common single entity forcing change is the filmmaker, because of risk concerns.
- **Documentarians still lack reliable information on the actual risk landscape, and about fair use on digital platforms.**

WHAT WOULD HELP?

- Showcase the *Documentary Filmmakers' Statement of Best Practices in Fair Use*
- Share success stories
- Publicize information on the extremely low risk associated with fair use conducted under the terms of the *Statement*
- Teach filmmakers about fair use, particularly on digital platforms
- Share information with distributors, lawyers, insurers
- Reward good actors in the doc. ecology
- Educational programs provided by national organizations to familiarize gatekeepers, including lawyers and distributors, with the *Statement*, current practice, and the actual risk landscape
- Understand the benefits and limitations of employing copyright-light licenses such as Creative Commons where appropriate within business practice

Learn more at cmsimpact.org/documentary.