



**COPYRIGHT LICENSING  
WITH THE HONG KONG COPYRIGHT LICENSING ASSOCIATION (HKCLA)  
An overview for cPRf members**

## **Overview**

This document serves as a brief overview on the various copyright licences available from the HKCLA. It has been generated independently of the HKCLA as an introduction and simple overview of the HKCLA's licensing structure. As such, it is not authorised by the HKCLA, and should not be construed as an official description of licensing terms. Rather, it is intended to provide general and introductory information for cPRf members. Individual cPRf consultancies are advised to fully review their own business circumstances within the context of the HKCLA's licensing regime to determine whether a licence is required for their own business, and if so which licence(s). Readers are also directed to the HKCLA's Web site ([www.hkcla.org.hk](http://www.hkcla.org.hk)) for additional information.

For ease of reference in this document, a cPRf member company is simply referred to as a "PR consultancy" or just "consultancy". This should be understood to be any company providing professional consultancy services in the marketing communications or public relations domain.

## **A. Introduction**

Principal members of the Newspaper Society of Hong Kong founded the Hong Kong Copyright Licensing Association (HKCLA) in October 2001. This company offers a one-stop collective licensing scheme for photocopying of newspapers. Through the scheme, the company aims at promoting public awareness of intellectual property rights.

HKCLA has been authorised by 12 Hong Kong newspapers and 14 Hong Kong magazines to issue photocopying licences for internal reference, instruction purposes (only applicable to kindergartens, primary and secondary schools under prescribed conditions) and news monitoring purposes.

### ***Newspapers:***

China Daily Hong Kong Edition  
Hong Kong Commercial Daily  
Hong Kong Daily News  
Hong Kong Economic Journal  
Hong Kong Economic Times  
Ming Pao Daily News  
Sing Pao  
Sing Tao Daily  
South China Morning Post  
Ta Kung Pao  
The Standard  
Wen Wei

### ***Magazines:***

Caz Buyer  
City Children's Weekly  
East Touch  
Eastweek  
E-Zone  
Hi-Tech Weekly  
JET  
Job Market  
Ming Pao Monthly  
Ming Pao Weekly  
PC Market  
Property Browser  
Property Times  
Yazhou Zhoukan

The HKCLA is authorised to issue licences under contract and administer the invoicing for collection of fees on behalf of these publications. Currently, the HKCLA's authority is limited to photocopy and fax permission, not for the scanning of editorial (subject to a caveat noted below). At the time of issuing this report, most of these publications remain very sensitive to digital copies being made of their editorial content and some publishers are currently not receptive to granting such a licence. Permission must be sought directly with each publisher.

*Apple Daily and Oriental Daily News, two of Hong Kong's largest selling dailies are not members of the HKCLA. Licensing for these publications would need to be implemented separately.*

## B. Contracts

There are three different contracts, which cover each of three different circumstances.

No.	Contract type	Intended user	Main features
	<b>General licences</b>		
G1	General photocopying licence	"end user" e.g. a corporation	Designed to provide a licensing mechanism permitting the copying of editorial for internal circulation or distribution;
G2	Provision of news monitoring services (which is core business)	Clippings house	Designed for a clippings house whose <i>primary business</i> is the provision of media monitoring services and the provision of photocopies to its clients. Such clients may be end-users or public relations agencies.
G3	Provision of news monitoring services (which is non-core business)	PR/marketing communications consultancy	Designed to meet the requirements of a consultancy which provides its own media monitoring and clippings service to its clients using in-house facilities, and which does not outsource to a clippings house

In addition, there is a special licence:

	<b>Special licences</b>		
G4	Extended storage licence	All parties	Permits photocopies of editorial to be retained in file for periods longer than six months.

There are important differences among these licences and they are intended for very different circumstances. Additionally, the terms and conditions of these licences need to be understood clearly so as to ensure a licensing entity secures the correct licence for their own circumstances, and so that the copying or faxing is done in conformance with the HKCLA's licence. The general licences will be discussed in reverse order.

### ***Provision of news monitoring services – clippings house***

This applies to businesses such as Gainteck Enterprises, News Power Holdings, Best Information or NewsGear, whose primary service is the general monitoring of media, and the making of photocopies under contract.

In this case, the licensee (i.e. the clippings house) has the following constraints on the service they are allowed to provide:

- Copies provided by the clippings house are for viewing by **one single person** within its client company
- Such clippings are for the clients' "current awareness", and may not be used for marketing or promotional purposes
- No alterations of the newspaper editorial is allowed
- The licensee (ie. the clippings house) must inform its clients about certain aspects of the HKCLA's licensing, namely:
  - i) in its own contract for clippings services, it must mention that photocopies are provided to clients on the basis that each copy can only be viewed by one single person in the client company, and any subsequent copies must be covered by suitable licensing (either copies made by the clippings house through additional licences or the end-user themselves having a valid licence, ie. general photocopying licence);
  - ii) on the cover page of the collation of photocopied clips (if any), there must be suitable copyright notice provided indicating that the attached copies are for viewing by one single designated viewer;
  - iii) on each photocopied article, there must be suitable copyright notice provided indicating that it is for viewing by one single designated viewer;
  - iv) that the client must destroy all copies after retention for a maximum of six (6) months

Note that the clippings house needs to pro-actively inform its clients of the restrictions of the licence in terms of readership constraints and how long copies may be retained. It is not required to play any role in enforcement of these licensing terms. However, the clippings house is required to make its best efforts to monitor client adherence to the licensing terms, and if it detects a breach then it is obliged to stop distributing copies of clippings to the offending clients.

Up to three (3) photocopies of each article can be provided to the clients of the clippings house if and only if each designated reader is in a different physical office location of the client company (ie. end-user). In this case, the clippings house is required to have up to three (3) separate licences to cover such copies.

### ***Provision of news monitoring services – PR consultancy***

This also applies to any PR consultancy that provides an in-house media monitoring and clippings service for its clients. A licence is required whether or not such media monitoring and copying services are done under a specific charge, or as a by-product (chargeable or not) of retainer services.

In this case, the licensee (ie. the consultancy) has the following constraints on the photocopying service they are allowed to provide:

- Copies provided by the consultancy are for viewing by **one single person** within its client company
- Such clippings are for the clients' "current awareness", and may not be used for marketing or promotional purposes
- No alterations of the newspaper editorial is allowed
- The licensee (ie. the consultancy) must inform its clients about certain aspects of the HKCLA's licensing, namely:

- i) in its own contract for clippings services, it must mention that photocopies are provided to clients on the basis that each copy can only be viewed by one single person in the client company, and any subsequent copies must be covered by suitable licensing (either copies made by a clippings house, through additional licences by the consultancy or the end-user itself having a valid licence, ie. general photocopying licence);
- ii) on the cover page of the collation of photocopied clips (if any), there must be suitable copyright notice provided indicating that the attached copies are for viewing by one single designated viewer;
- iii) on each photocopied article, there must be suitable copyright notice provided indicating that the attached copies are for viewing by one single designated viewer;
- iv) that the client must destroy all copies after retention for a maximum of six (6) months

Note that the consultancy needs to pro-actively inform its clients of the restrictions of the licence in terms of readership constraints and how long copies may be retained. It is not required to play any role in enforcement of these licensing terms. However, the consultancy is required to make its best efforts to monitor client adherence to the licensing terms, and if it detects a breach then it is obliged to stop distributing copies of clippings to the offending clients.

Up to three (3) photocopies of each article can be provided to the clients of the consultancy if and only if each designated reader is in a different physical office location of the client company (ie. end-user). In this case, the consultancy is required to have up to three (3) separate licences to cover such copies.

### ***General photocopying licence***

All end-users who wish to use photocopies of or fax editorial from publications of any of the HKCLA's members must have a suitable licence. There are several valid approaches to this, as follows:

- The end-user can outsource to a clippings house. In this case, the photocopy provided is covered by the licence held by the clippings house. For any additional internal circulation or distribution the end-user must apply for a licence directly from HKCLA. (note: the end-user should take steps to check that the clippings house has a valid HKCLA licence to cover copies it is receiving).
- The end-user can outsource to a PR consultancy, which either does the copying itself through its own in-house facilities and under the consultancy's licence. For any additional internal circulation or distribution the end-user must apply for the licence directly from HKCLA. (note: the end-user should take steps to check that the consultancy has a valid HKCLA licence to cover copies it is receiving).
- It can obtain an end-user licence directly from the HKCLA to cover the copying or faxing of editorial. The licence is established for the viewing of one individual corporate officer to view the copy. In other words, a photocopy of an article is neither allowed to be circulated for general viewing by management within the end-user organisation, nor can it be displayed on a company notice board (note that the use of original clippings are different – these can be circulated, and pinned to a company notice board).
- Since digital copies are not currently covered by the standard licence from the HKCLA, digital copies of articles are not allowed, and therefore cannot be uploaded to a corporate intranet unless the end-user has obtained such licence directly from the publishers.

### ***Special licences: extended storage***

Photocopies of editorial from newspapers may only be retained for a maximum of six (6) months. If photocopies need to be stored for longer periods, a separate licence for extended storage must be taken out. There is a separate charge for this. Under this licence, there is no time requirement for how long copies may be retained unless such licence is terminated.

### ***Digital copies (scanning of editorial)***

The HKCLA is not currently authorised to grant licences for digital copies of editorial by its members. This may or may not become part of the HKCLA's future mandate. Member publishers have a range of views about whether they will permit digital copies to be made and some newspapers, such as the SCMP, do not grant permission for digital copies. Currently, each newspaper publisher must be approached individually on this matter.

Under the terms of the HKCLA licences, there is only one circumstance under which a digital copy of an article is permitted, namely for the *transmission* of a clip to a client. It is permitted to scan an article and send this via email from a consultancy to a consultancy's client but only on the basis that both the consultancy and the client immediately destroy the digital copy after transmission. In other words, the client is required to print the article immediately (in this case, a printed version is synonymous with a copy).

### **Licensing periods**

Licences are established for 12 month periods, and part-years are not permitted.

It should also be noted that the HKCLA instituted its formal licensing regime effective from 15 November 2002, and has had some clients signed up and paying fees from this date. In order to ensure a level playing field is maintained, the HKCLA is insisting that all new licensees establish contracts that are retrospectively operational from this date. The implication of this is, therefore, that new licensees must incur backdated fees for all copies done during the period since 15 November 2002.

### **Charges**

Each licence contains a table that lists all publications. Charges are defined based on photocopies per month. This number is banded into the following usage groups:

- Very low usage: not more than 10 copies per month
- Low usage: more than 10 but less than 30 copies per month
- Medium usage: more than 30 but less than 60 copies per month
- High usage: unlimited copies per month

Charges are levied by publication title, and vary according to usage. Costs are calculated based on the number of clips done for each title. For very low usage, this ranges from a low of HK\$12.5 per month to a high of HK\$31.3 per month, and if the licence covers 1 copy of all titles in this usage category the total monthly charge is (at the time this report was generated) approximately HK\$262 per month. At the other extreme, high usage charges by title vary from HK\$83.3 to HK\$208.3 per month, and if all titles are licensed 1 clip/month from each is approximately HK\$2,000 per month.

Since the actual number of copies per month will vary according to many factors, licensees must establish their initial licence according to an actual assessment of copies being made at that time. The monthly fee then runs on an honour system, and Licensees are then obliged to monitor their copying, and to report to the HKCLA either increases or decreases to their average copying levels as they vary.

## C. Scenarios

The following hypothetical scenarios are defined to assist in understanding what licence(s) may be applicable under various circumstances of business operations for cPRf member consultancies. These scenarios are arbitrarily defined, and are not necessarily representative of all possible scenarios.

### **Example 1:**

Consultancy outsources media monitoring to a clippings house on behalf of its client.

Scenario (a): the clippings house forwards clips directly to the client, and the consultancy does not retain any copies internally.

The consultancy is not required to have a CLA licence since it neither provides clips, nor retains them in-house in files for future reference.

Scenario (b): consultancy not directly involved in clippings process – consultancy’s client engages the clippings house directly. Clippings house forwards clips directly to the client, but the consultancy also received copies in order to monitor results of its services, and these copies are retained on file for possible future reference by client.

In this case, a CLA licence is required. This must either be taken out by the clippings house (licence G2 in the table), which must be authorised to make one copy for the consultancy, or the consultancy must have its own licence (licence G3). In this case, it would be an “end user” licence that permits one individual to use/have sight of the clip. All copies must be destroyed within six months.

Scenario (c): as above for (b), but consultancy retains the copies for more than six months.

The consultancy must have a special licence for extended retention (licence 4).

### **Example 2:**

Consultancy does its own media monitoring and copying of clips for onward distribution to its clients.

A CLA licence is required (licence G3).

Note that if the clips are to be retained on file for more than six (6) months, the consultancy must have a special licence for extended retention (licence 4).

### **Example 3:**

Consultancy does its own media monitoring and forwards originals of all clips for onward distribution to its clients.

No CLA licence is required if no copies are made.

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