Pharmaceutical Licence

Explanatory Leaflet for Licence Coordinators

1 Introduction

Your company holds a Pharmaceutical Licence with The Copyright Licensing Agency Ltd (CLA) which allows you to make copies of extracts, subject to certain terms and conditions, from books, magazines, journals and periodicals published in print and from a wide range of digital publications. Copies may be made from publications including those to which you subscribe and from articles or press cuttings provided by licensed external suppliers (e.g. a public relations or press cuttings agency or the British Library) where a copyright fee has been paid.

1.1 The licence covers:

- Photocopying
- Scanning
- Copying of digital content, e.g. e-books, PDF files from electronic subscriptions, scanned articles circulated by email, online journal articles and certain website material

1.2 Which Publications?

- Books
- Magazines
- Trade Press
- Journals
- Periodicals
- Law Reports
- Reference editions
- Abstract journals
- Press cuttings received from a press cuttings agency
- Copyright fee paid copies
- Some digital versions of the above

1.3 Common examples of where you might need to make and distribute copies internally within your organisation include:

- To share with colleagues at meetings or briefings
- For market intelligence
- For research & development
- For staff training
- To share media coverage within your organisation

2 Requirement to Own an Original

Except in the case of free-to-view websites, your company should have paid for, or legitimately own, an original of any work being copied. That is, the company should subscribe to the journal or online publication being copied, have been a subscriber for the period covered by the issue being copied, or have bought the book or off-line publication, or been presented with it – for example, a controlled-circulation magazine.

2.1 In general you can copy from material which:

- Has been purchased as part of a current or past subscription, by your company
- Has been received from press cuttings and PR agencies (however, newspaper content in both print and digital format is excluded, except titles represented by Knowledge Bylanes and Syndigate, details of which are available on CLA's website)
- Has been supplied by or via a third-party licensed document supplier/aggregator or a publisher's pay per view website
  (if the publisher has opted in to the Licence) and where a copyright fee has been paid
- The Licence does not allow you to copy from an employee's personal subscriptions unless the employee permanently donates the copy to your company

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3 How Much Can Be Copied?

3.1 In respect of Paper Copies:

- One complete chapter from a book
- Up to two articles from a single issue of a journal or magazine. If the issue is a specially-themed issue, you may copy any number of articles linked by a common theme. This does not apply to US published works, from which only one article may be copied
- In the case of a published report of judicial proceedings, the entire report of a single case
- Or 5% of the publication, if greater than the above

In respect of Digital Copies where the material has been scanned from a print publication or is from Digital Material organised in a similar way to a printed publication (i.e. in discrete sections), the extent limits outlined above apply. For example, you may copy one complete chapter from an e-book or 5% of the whole – whichever is the greater.

However, much Digital Material is not organised in a similar way to a printed publication, instead being non-linear and often not designed for printing. In these cases you should ensure, as far as is practicable, that the amount you copy is approximately equivalent to the limits set out above and therefore follows the spirit of the Licence. It should be helpful to bear in mind the requirement set out in the Licence that copying does not substitute for the purchase of original material. As free-to-view websites and paid-for digital publications vary enormously in size, a degree of informed personal judgement is required when ascertaining how much may be copied under the Licence.

The important thing to assess is what constitutes an individual work (as it is 5% of this that may be copied); it should never be assumed that a website or digital publication is the equivalent of one work only as it will be made up of many different components. As a general rule, the 5% limit should be applied to a discrete item within a free-to-view website or paid-for digital publication – so, for example, 5% of a PDF or 5% of all html pages. If a discrete item is small, it may be possible to copy all of it (in the same way as, for example, you may copy one article from a magazine). For example, a white paper available to subscribers but sold separately for download elsewhere may not be copied in its entirety, but one article from a list which, when printed out, comprises only four A4 pages, may be copied. Any material accessed via an included link to a third-party website should be regarded as part of a separate work.

The above restrictions apply to any particular occasion or purpose for making the copy, such as a meeting or sending a memorandum. Effectively, this means “at a time”, so there is no requirement to check whether a colleague may have copied the same article for, say, a meeting of a different group.

4 Who Is Entitled to Copy And/Or Receive Copies?

- Any UK employee, consultant or agency worker is entitled to make and receive a photocopy
- Any employee or consultant of any affiliated company overseas may receive a photocopy
- Any UK employee, consultant or agency worker is entitled to make and receive a scan or digital copy provided these copies are sent and accessed via email or your company’s network
- Any employee or consultant of any affiliated company overseas is entitled to receive a scan or digital copy provided these copies are created in the UK and are sent and accessed via email or your company’s network. They may open, view and (unless the material is from US repertoire which cannot be copied) print a single paper copy unless your company holds a CLA Multinational Pharmaceutical Licence
- Copying may be subcontracted to third parties in the UK or overseas
- Copies may be sent to external organisations for the purposes of regulatory or patent submissions

5 Storage of Copied Material

- Employees may store Digital Copies to their local hard drives or personal server space
- Employees may store Digital Copies on a secure network, such as an intranet. However, copies should not be stored systematically to create an electronic library (or similar)
- Copying may be subcontracted to third parties
- Copies may be sent to external organisations for the purposes of regulatory or patent submissions

6 Specific Copying Guidelines

6.1 Photocopying

The Licence permits photocopying from a very wide range of publications. You can copy from all works published in the UK and Mandating Territories and by Participating US Publishers (see notes. You cannot copy from Excluded Works, and works in any Excluded Category (see notes).

6.2 Scanning

The Licence permits scanning from a very wide range of publications. You can make Digital Copies from all print Works published in the UK and other countries with which CLA has agreed a 'Digital Repertoire Exchange' as identified on cla.co.uk and updated from time to time. You can make Digital Copies of any U.S. Work identified as being available for copying via CLA's Check Permissions (see notes) or on the CLA website, as long as an electronic copy is not readily available from the publisher. You cannot copy from Excluded Works, and works in any Excluded Category (see notes).

6.3 Digital Copying

You can make Digital Copies from UK publications created and distributed in electronic form published by a Participating Digital Material Publisher (see notes) except Excluded Works or works in any Excluded Category (see notes). CLA digital repertoire consists of a wide range of content, including e-books, PDF files from electronic subscriptions, online journal articles and certain website material. You can make Digital Copies of any work created and distributed in electronic form (excluding websites) in countries with which CLA has agreed a 'Digital Repertoire Exchange' as identified on cla.co.uk and updated from time to time. You can make Digital Copies of any U.S. work created and distributed in electronic form (excluding websites) identified as being available for copying via CLA's Check Permissions or on the CLA website. You cannot copy from Excluded Works, and works in any Excluded Category (see notes).

7 Workplace GAI Permissions: Prompting Generative AI Tools

Workplace GAI permissions under your CLA licence permit the lawful copying and inclusion of published works for prompting permitted Generative AI (GAI) tools, subject to certain limitations and restrictions as described in the licence, including on the use of GAI outputs outside of your organisation.

Examples of where you might make copies for prompting GAI tools include summarising, collating or translating:

Research papers and industry reports	✓
Legal and technical publications	✓
Market research	✓
Financial reports and economic data	✓

Examples of where you might use permitted GAI tools to generate outputs for external use include helping writing news releases or reports, with further guidance in the Appendix below.

You can only use your licence to make copies of works whose rightsholders have granted permission for Workplace GAI use – please check at www.cla.co.uk before prompting.

The key limitations and restrictions can be summarised as:

1: The licence only covers the use of versions of GAI tools that do not use prompts for training or fine-tuning the underlying model

2: Licensed content and GAI outputs may not be used for the purposes of training or fine-tuning GAI tools

3: GAI outputs cannot form part of your organisation's products or services

4: GAI outputs must not be used as a substitute for original creative work

5: GAI outputs must not compete with published works

6: GAI outputs must not incorporate a substantial part of the original prompt

7: GAI outputs must not be systematically indexed or stored in a library, database, archive or similar resource

8: GAI outputs used externally must cite or reference the published content used as a prompt. This could be in the form of a written citation, or a hyperlink to the original content, for example

9: Images may only be used as prompts if they are part of the published work, such as an article, chapter, or report.

Please note that CLA's role is limited to the licensing of rights only and users of the licence must satisfy themselves as to the quality, accuracy, completeness and suitability of any GAI outputs when using or relying on GAI outputs

There remains discussion over whether a third party may own any rights in GAI outputs, where the GAI output is generated in response to a prompt into a GAI tool. This remains to be confirmed by the courts. Under the licence, the subsequent use of GAI outputs is restricted and subject to the terms and conditions set out in Clause 9.

8 Annotation and Digital Markup

Electronic notation or electronic marking up of a digital copy which clearly distinguishes such notation or marking up from the original text is permitted.

9 Unencrypted Document Supply

Any Authorised Person may receive an unencrypted copyright fee paid article from a CLA-licensed document supplier for use under the terms of this agreement.

10 Sending Copies Outside Your Company

You may send material outside the company only in the following circumstances, provided that each item sent or made available outside is marked with a copyright notice (either on the document itself, or attached by way of a cover sheet) stating clearly the terms under which the copy was produced.

10.1 Medical Information and Technical Support

You may send digital and print copies to healthcare professionals and others making unsolicited requests for therapeutic or technical information about your company's products. Under no circumstances may copies be supplied for promotional or marketing purposes. Where such use is appropriate under industry legal and ethical guidelines such as the ABPI Code of Practice for the Pharmaceutical Industry, multiple copies (known as "offprints") may be obtained from the publisher or other licensed source.

Examples of permitted use

- A patient requests a copy of an article presenting evidence of the benefits of a particular drug, which is then sent to the patient
- A doctor requests a copy of an article detailing research into side-effects of a particular drug, which is then sent to the doctor

Examples of uses that are not permitted

- A sales representative offers to send a copy of an article about a new drug to a doctor
- A sales representative opens a digital copy of an article on his laptop and shows it to a doctor
- A sales representative opens a digital copy of an article on his laptop and shows it to a doctor
- A doctor requests several copies of an article to give to her patients if requested

10.2 Regulatory Authorities

You may send digital or paper copies to the regulatory authorities in any jurisdiction. You may also send them to external regulatory advisers in connection with an application or regulatory advice.

10.3 Legal Proceedings

You may send digital or paper copies to external advisers in connection with the preparation or prosecution of legal proceedings. This permission does not apply to work published in the United States of America.

10.4 Patent Applications

You may send digital or paper copies to patent authorities in support of a patent application in any jurisdiction.

11 No Substitution for Purchase

The Licence does not permit you to make copies which directly or indirectly substitute for the purchase of an original published edition (whether print or digital), or which might be used instead of commissioning work directly from a visual artist or a writer. The Licence has been developed to help you make full use of the material you already own.

12 Data Collection

Your company pays an annual licence fee to CLA, which (after deduction of CLA's costs) is distributed to the authors, visual artists and publishers concerned. CLA uses a number of means to distribute the licence fee as fairly as practical without imposing an undue burden of reporting on licensees. Although you do not need to keep an ongoing record of your copying, you may from time to time be asked to take part in a data gathering exercise, such as providing CLA with information on your publication holdings or the contents of your company's secure network, or answering questions on the copying that is done under your Licence.

13 Additional Information

CLA produces a number of other documents to support the Licence and its interpretation. The latest versions of these documents are available on the CLA website at cla.co.uk and you should check the version on the website before copying.

14 Notes

In these guidelines, some terms are used which have special meanings:

Check Permissions
To check whether a work is included in your CLA licence, you can use CLA's Check Permissions at cla.co.uk. You can also download the Check Permissions mobile application for your mobile device.

Excluded Work
An Excluded Work is a work (such as a book, journal or periodical) which is specifically excluded from our licence coverage and cannot therefore be copied without direct permission from the rights holder.

International Mandating Publishers
A number of non-UK publishers have authorised CLA to undertake collective licensing on their behalf. Generally works from these publishers can be used in the same way as works published in the UK.

Participating Digital Material Publisher
A Participating Digital Material Publisher is a publisher who has agreed to include their digital publications in our licences.

Participating U.S. Publisher
A Participating U.S. Publisher is a publisher whose Work can be photocopied under CLA's licence by agreement between CLA and CCC (Copyright Clearance Center).

Mandating Territory
A mandating territory is a country with whom CLA has signed an agreement to include in CLA licences some or all publications from that country.

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Appendix

Examples of external uses of GAI outputs which are permitted:

Use of GAI by an internal communications team to help with writing a news release about a new product, to go on your company website	✓
Use by an internal communications team to summarise press coverage of a new product, to send to external partners	✓
Share summaries of articles with collaboration partners on an ad hoc basis by email	✓
Share externally a document which comprises new AI-generated text generated by prompting a GAI tool with extracts of published works, with citation of the original sources	✓
Supply GAI outputs to any regulatory authority in the UK for regulatory or marketing approval or as part of the filing of a patent application	✓

Examples of external uses of GAI outputs which are not permitted:

Use of GAI by a communications agency to write a news release on behalf of a client *This would be in breach of clause 9.6 which prohibits use of GAI outputs as part of a product or service*	✗
Use as part of a media monitoring service to summarise press coverage on behalf of a client *This would be in breach of clause 9.6 which prohibits use of GAI outputs as part of a product or service*	✗
Sharing summaries of the latest research with collaboration partners in a shared repository *This would be in breach of clause 9.5 which prohibits storage of GAI outputs in an electronic library or database.*	✗
Share externally a document which, interspersed with new AI-generated text, includes several long sections repeated verbatim from published works, comprising a substantial part of the original work *This would be in breach of clause 9.4 which prohibits outputs containing a substantial part of the original work.*	✗
Share externally a document which comprises new AI-generated text generated by prompting a GAI tool with extracts of published works, without any citation of the original sources *This would be in breach of clause 9.6 which requires appropriate citation of published works used as prompts for GAI outputs*	✗
Use GAI outputs externally as part of a professional service in connection with regulatory approval or patent filings *This would be in breach of clause 9.6 which prohibits use of GAI outputs as part of a product or service.*	✗
Publication or use of GAI outputs generated under this licence on social media / in a social media post. *Under their terms of use, most social media platforms use user content for the training of their generative AI systems. Therefore, your use of GAI outputs on social media would likely be in breach of clause 8.1 of the licence which prohibits use of licensed material, or outputs generated under this licence, to train generative AI systems.*	✗

Further Information

Please contact CLA Customer Services: **Tel** 020 7400 3126 **Email** cs@cla.co.uk

This document is intended for use as guidance only and not as a substitute for the CLA licence terms themselves, which should be read in full. In the event of conflict between the two, the licence terms shall prevail.

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