INTERNATIONAL TRANSACTIONAL ANALYSIS ASSOCIATION

Regarding Copyright, Translation, and Republication of TAJ Articles

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History

Over the years, we have had many queries regarding the legality of copying *Transactional Analysis Journal* (*TAJ)* articles for educational purposes and other purposes and about translation and republication licensing. To address some of these questions, the following research has been conducted to provide information that will hopefully be useful to members and others who are interested in such issues. If you have questions not answered here or want to request permission for use, translation, and/or republication of *TAJ* articles, please contact *TAJ* Managing Editor Robin Fryer (robinfryer@aol.com). She will then either reply directly or will consult as needed with representative on the ITAA Board of Directors and/or the *TAJ* publisher Routledge/Taylor & Francis.

Background to Copyright Law

The copyright for *TAJ* articles belongs to the ITAA. When an article is published, the author(s) signs an agreement with our publisher, Routledge/Taylor & Francis, to allow publication with the understanding that the copyright remains with ITAA.

Each *TAJ* author is allowed to share 50 reprints of their article and to post their own Author Original Manuscript (AOM) or the Accepted Manuscript (AM) on their own website (see the attached flowchart). When posted online, the article must indicate the source with the following words: "This is an [Accepted /Original Manuscript] of an article published by Taylor & Francis in the *Transactional Analysis Journal* on [date of publication], available at http://www.tandfonline.com/[Article DOI]." Please note that for the *TAJ*, the Original Manuscript is the one submitted to the *TAJ* editorial team prior to review, and the Accepted Manuscript is the one that has been copyedited before submission to the publisher.

Author(s) may also share their article(s) at a meeting or conference by printing and distributing the published work known as the Version on Record (VOR). They must include on each copy the following words "This is an [Accepted/Original Manuscript] of an article published by Taylor & Francis in the *Transactional Analysis Journal* on [date of publication], available at http://www.tandfonline.com/[Article DOI]."

When people such as trainers, supervisors, and teachers wish to distribute articles by authors other than themselves, there are legal guidelines that refer to fair use in the United States (US) or fair dealing in the United Kingdom (UK). We are aware that other areas of the world may have different laws/regulations/requirements with regard to such guidelines, but since it is not possible to cover all those here, we urge members to research these issues as needed for legal usage requirements in their countries/region.

US Guidelines Regarding Fair Use

The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
2. the nature of the copyrighted work
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole
4. the effect of the use on the potential market for or value of the copyrighted work

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UK Guidelines Regarding Fair Dealing

What is fair dealing? Fair dealing is a term used to describe some limited activities that are allowed without infringing copyright. Briefly these are as follows:

1. Research and private study: Copying parts of a literary, dramatic, musical or artistic work or of a typographical arrangement of a published edition for the purpose of research or private study is allowed under the following conditions:

   • The copy is made for the purposes of research or private study

   • The copy is made for noncommercial purposes

   • The source of the material is acknowledged

   • The person making the copy does not make copies of the material available for a number of people

2. Instruction or examination: Copying parts of a literary, dramatic, musical, or artistic work or a sound recording, film, or broadcast for the purpose of instruction or examination is allowed under the following conditions:

   • The copying is done by the student or the person giving instruction

   • The copying is not done via a reprographic process. (Reprographics is a printing term producing higher quality than photocopy.)

   • The source of the material is acknowledged

   • The instruction is for a noncommercial purpose

Some Scenarios Explaining Some of the Subtleties (These scenarios are taken from The California State University Long Beach. See https://csulb.libguides.com/copyrightforfaculty/scenarios)

Scenario 1: A professor copies one article from a periodical for distribution to a class.

Fair Use? Yes. Distribution of multiple copies for classroom use is fair use. However, the repeated use of a copyrighted work, from term to term, requires more scrutiny in a fair use evaluation. Repeated use, as well as a large class size, may weigh against fair use.

Scenario 2: A professor has posted his class notes on a web page available to the public. He wants to scan an article from a copyrighted journal and add it to his web page.

Fair Use: No, if access is open to the public, then this use is probably not a fair use. No exclusively educational purpose can be guaranteed by putting the article on the web, and such conduct would arguably violate the copyright holder's right of public distribution. If access to the web page is restricted, then it is more likely to be fair use.

From the UK Government website: Factors that have been identified by the courts as relevant in determining whether a particular dealing with a work is fair include:

- Does using the work affect the market for the original work? If a use of a work acts as a substitute for it, causing the owner to lose revenue, then it is not likely to be fair.

- Is the amount of the work taken reasonable and appropriate? Was it necessary to use the amount that was taken? Usually only part of a work may be used.

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For the *TAJ* Specifically

There is no global formula or percentage and what is acceptable varies from one work to another and possibly from one country to another.

Trainers, supervisors, and teachers making copies of *TAJ* article for educational purposes should consider the options below to ensure they are complying with fair use or fair dealing.

1. Is this a nonprofit making endeavor?

2. With regard to the quantity being produced, does it follow fair use or fair dealing guidelines?

Another important consideration specifically in relation to the *TAJ* is that fair use does not apply if the photocopying of articles constitutes a threat to the viability of the *Journal*. For example, if trainers provide photocopies for students, does that mean that those students will not need to join the ITAA to access articles? In the ITAA, student membership has been specifically designed so that students can join and have TAJ access for only $90/year, and the scholarship grant fund provides students in financial hardship with help in covering a membership fees. Students also need to be aware that their membership password should not be circulated to other students.

Translation and Republication of *TAJ* Articles

ITAA has contracted with Routledge/Taylor & Francis specifically so that the association can grant permission to TA associations worldwide to translate/republish articles for a small administrative fee ($35 per article). Such permission requests from TA associations should be sent to *TAJ* Managing Editor Robin Fryer (robinfryer@aol.com).

Other individuals or organizations who approach the ITAA for such permissions are handled on an individual basis and usually involve Routledge/Taylor & Francis. (It appears that their fee for republication for one article is about $1000, though that may depend on circumstances, especially whether the use is not for profit.) In considering any translation and/or republication request, the ITAA requires assurance that the translations are carried out by professional translators and to an appropriate standard.

The ITAA/Taylor & Francis Liaison Committee examines each request and decides on the appropriate fee for each application. (The ITAA receives as royalties 40% of the fee charged for each permission.) All requests other than routine ones from TA associations as outlined above are assessed on the following criteria:

- Is it a commercial request (i.e., for profit) or not for profit?
- Is the translation verifiable by a professional bilingual person?

Beyond a routine translation/republication request from a TA association for an article or small number of articles, the association's country is then assessed along the lines of the Numbeo cost of Living Comparison tool as to how much they should be charged for republication. For example:

- Countries such as Brazil and Ukraine applied to have EBMA articles translated and published. They were assessed by the above criteria and were given much reduced fees by Routledge/Taylor & Francis for republication.
- One author requesting translation and publication of their articles in a for-profit book was charged around $4000 for four articles to be republished in English.

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Checklist of Instructions for Anyone Negotiating Translating or Republishing *TAJ* Articles

1. Check to see who owns the copyright.

2. If the request concerns either a TA article or some other publication copyrighted by the ITAA, they or the requester needs to contact the ITAA (either the managing editor or the Director Research & Innovation) to determine if the ITAA can handle the request or whether Routledge/Taylor & Francis or some other publisher/entity needs to be involved. Be prepared to provide answers to the following questions:

- Who will do the translation?
- What steps will be taken and by whom to ensure the translation is accurate?
- How will the translation be made available: in a book or journal, on a website, as a handout? Give as much info as possible about the circumstances (e.g., book author/publisher/print run; who publishes the journal or owns the website; who teaches the class and where; etc.)
- Will there be a cost to readers? If so, how much and who will the money go to? Is this a for-profit or nonprofit project?
- When will the translation likely be published or available?

This article is designed to address some of the questions that frequently arise with regard to use/republication/translation of *TAJ* articles, even though we are unable to cover all the ground, especially with regard to guidelines and legal standards in all countries/regions. If you have specific questions, please contact Elvyn Aydin, ITAA Director of Research and Innovation, at elvinaydinkeles@gmail.com. We want to do what we can to demystify the republication process and to support members and TA groups/associations in their efforts to make *TAJ* materials available to as many people as possible.