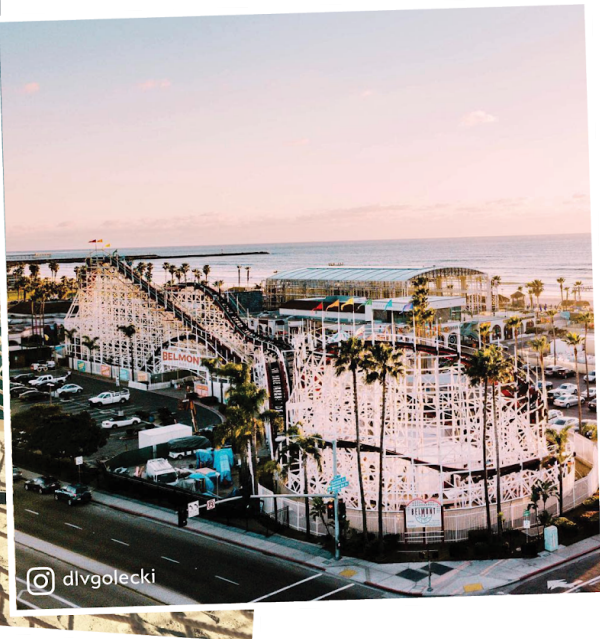
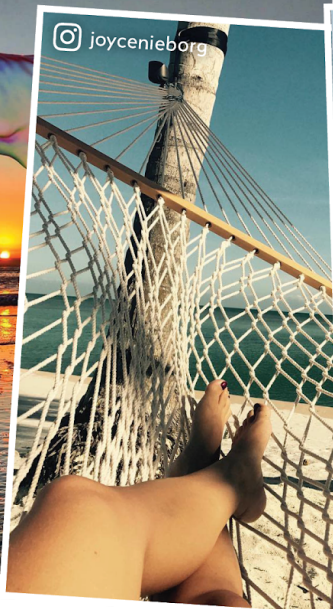


How to (legally) acquire user-generated content for your marketing



Things to know about copyright

Copyright determines who owns specific works of art, like photography, music, paintings or written works. It's serious business and can mean a great deal of negative publicity and financial loss for your brand if violated.

Don't steal

Copyright law in most countries gives the authors of creative works automatic protections and prohibits others from using their works without permission. There are some exceptions to copyright protection such as work "made for hire" and "fair use," but they don't usually apply to user-generated content for commercial activities like marketing.

If someone mentions your business in a post, or if you give credit to someone who took a particular photo, that alone does not give you legal permission to use it. In short, **don't steal; ask for permission.**

This article (<https://petapixel.com/2017/07/13/no-cant-use-photos-brands-instagram-free/>) got lots of visibility online and was not a positive event for the brand that stole the content.

Posting and sharing

While Facebook and Twitter both have ways to share content from others, Instagram has limited native sharing capabilities for posts. Your posts on Instagram must be either content that your own or content that you have permission to use. They explicitly reference this in their Community Guideline policy (<https://help.instagram.com/477434105621119>):

Share only photos and videos that you've taken or have the right to share.

As always, you own the content you post on Instagram. Remember to post authentic content, and don't post anything you've copied or collected from the Internet that you don't have the right to post.

Repeatedly infringing the copyrights of others can result in your Instagram account being disabled. For more details from Instagram regarding copyright reports, infringement, and policies, visit <https://help.instagram.com/126382350847838>.

Even though it is possible to share content on Facebook and Twitter, frequently businesses want to post content directly to their feed or run an ad. Anything other than sharing or retweeting requires ownership or permission to use the content.

Get written permission

Posting user-generated content requires permission, and fortunately, the easiest way to get permission is also the best way—in writing. Ideally, you'll have an agreement published online that has your detailed terms and conditions associated with your permission request.

Request in the comments

If the platform supports commenting on users' posts, you can leave a comment requesting permission to use the content.

Requests in direct messages

If the platform supports direct messages, you can reference the post or link and request permission to use the content

Rules in a publicized contest

When running a contest, you'll need to publish official rules where you can describe what permission you'll receive to any contest entries submitted by users. By making the entry process clear and explicit (with clear links to the rules), you'll be able to get permission to use any of the contest entries.

Terms and conditions for website uploads

If you allow users to upload content through your website, you'll want to ensure you have clear terms and conditions for any users and any content they upload to you. Those terms and conditions can cover your permission to use the content.

Requests in email

You can discuss terms and conditions as well as transfer content via email. It's not the easiest to track or manage but can work if there aren't any other viable options.

Key points to remember

- Be authentic and tailor your message to the photo or video. For example, "That's our favorite kind of coffee too!"
- Tell the user what you plan to do "We'd like to share your photo on our pages."
- Ask for permission with a phrase like "Is that OK?" or "If you agree, reply #yesBrand"
- It's best to include a way for them to view the terms and conditions as part of your request. For example, "See link in bio for terms." or "T&C: <https://example.com/ugc>"

Best practices

Give attribution

Give credit to the creator in the caption or as a text overlay whenever possible. It is expected etiquette and good marketing. It not only rewards creators that are sharing great content with you, but it also encourages your audience to produce more user-generated content.

Ask for permission publicly

By asking for permission in comments on the post, you have the opportunity to gain brand visibility with the creator's audience, reinforce a positive brand perception, and give public acknowledgment of great work.

Save audit trail of permission

If you're getting permission in comments, direct messages, contest entries, or email, you should make sure to screenshot and organize documentation of the permission you received. If you have terms and conditions on your website or as part of contest rules, make sure to save a copy of those as well.

Encourage sharing of UGC

Having a call to action for your audience to share user-generated content is important. You must frequently take the opportunity to remind them that you'd love to see their experiences and hear their stories related to your product or service. In addition to reminding them offline (e.g., printed materials) and online, you can further incentivize content creation with campaigns like contests or giveaways.

When encouraging UGC on Instagram, don't forget to ask the creators to mention your account in the caption or comments. Hashtags alone are good for reach and creating a community conversation, but businesses using 3rd-party tools to manage their social channels will only be able to reply to comments/captions that include their handle. If the users don't mention your handle, you'll have to use the Instagram website or app to reply.

Content to avoid

Content that wasn't captured by the user

For a user to be able to grant you permission to share content, they must own the copyright. If they took the photo or video, then generally they have the right to it. (There are exceptions. For example, when people are hired to capture content. Typically, however, users are not posting that content on their personal social media accounts.) If you read the comments and see any dispute about who took the photo, definitely stay away. If the user is in the photo, but it isn't a selfie, then the user likely didn't capture it.

Brand and business accounts frequently post non-original content (sometimes without permission). Treat these types of accounts with caution—especially if they are a “hub” or “topic” account that primarily reposts content. A good way to spot non-original content is to look for photo credit listed in the caption (also shorted as PC, p.c., 📷, or 📸). The best accounts to request permission from are individuals who are clearly capturing their own photos and videos.

Content with other identifiable people

People generally have a right to control their publicity. Most casual photographers do not get model releases from the subjects of their photos. It is best to avoid requesting permission if the photo or video includes other people (especially celebrities).

Content produced by professionals like wedding photographers

Professional photographers take great pictures. However, they may request compensation beyond simple attribution (e.g., money or negotiating the attribution to include their website link). While you can pursue these negotiations, they can be complicated and difficult to ensure your use of the photos stays in compliance with their terms.

Content produced by children under age 18

Children as young as 13 can sign up and post content on Facebook, Twitter, and Instagram. However, they are not able to enter into binding legal agreements to license their content. Years later, the user could come back and dispute your right to use a photo if they were under 18 when they granted you permission.

Further reading

- <https://www.copyright.gov/fair-use/more-info.html>
- <https://librisblog.photoshelter.com/5-examples-of-image-copyright-battles-between-creators-and-brands/>
- <http://www.abc.net.au/news/2017-02-03/social-media-photographers-dispute-use-of-photos-by-tourism-tas/8237672>



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