

What Am I Allowed to Caption?

Copyright considerations for public video use



[500+ hours of video](#) are uploaded to YouTube every minute worldwide. Professionals are making use of public content for training, teaching and other internal purposes, and they often want to caption it, primarily in an effort to make video accessible to individuals with disabilities.

However, copyright issues can come into play when using video. Everyone using public video content should be aware of the copyright laws, fair use cases and risks when it comes to captioning video that's not their own.

Key Copyright Regulations Affecting Business & Education

The Business Use Case

Businesses using public content should be careful when captioning video. Laws that address captioning for business use still aren't clearly outlined in current legislation, and yet businesses are still required to provide [effective communication](#) to individuals with disabilities according to ADA guidelines. In general, accessibility risks are much higher than captioning copyright risks, with a [64% increase in web accessibility lawsuits](#) in 2021.

A good rule of thumb is that if the video is being used for accommodation purposes, then it should be fine to caption. **Businesses can take the following steps to avoid copyright risk when using public video:**

- ✓ Exercise due diligence in looking for a captioned copy of the video before having it captioned
- ✓ Ask the creator of the video for permission to use and caption it
- ✓ If it's being used for an accommodation, make sure the video isn't reposted publicly - only share it with the individual requesting the accommodation

How Universities & Schools Are Affected

For educational institutions, fair use policies are more straightforward. The US Copyright Office released a [final ruling in 2018](#), finding that disability service professionals from educational institutions can freely caption and audio describe video if it's for the purpose of making content accessible to individuals with disabilities.

The ruling recommended that "the exemption apply to for-profit and nonprofit educational institutions, as well as to K-12 institutions, colleges, and universities, because they are subject to such disability laws" like the ADA and Section 508.

What Is Fair Use?

[Fair use](#) allows organizations to use copyrighted content under specific conditions. Captioning educational video is often considered fair use, as long as it's not being used to sell or gain profit.

For example, the audiobook service Audible went through a [publishing lawsuit](#) when it began providing speech-to-text [captioning](#) software like the one AST offers. Plaintiffs argued that Audible didn't have the right to generate and distribute text.

To ultimately make sure you're practicing fair use, it's important to seek professional legal advice from a lawyer who can analyze your specific use case.

How To Know If Video Is Copyrighted

According to the US Copyright office, any work that was produced after January 1978 has [copyright protection for the lifetime of the author](#) and 70 years thereafter. Unless the video was specifically released for the public domain, it's safe to assume that most video content from platforms like YouTube and Vimeo are subject to copyright protections.

To know for sure if the video you use is protected, professionals can use these resources:

- ✓ US Copyright Office's [public catalog](#) determines if content is copyrighted or in the public domain
- ✓ [Public Domain Sherpa](#) and [Limited Times](#) provide more advanced filtering and reporting options for copyright data, which can be difficult to find in the public catalog

What Are You Allowed To Caption?

In general, organizations can look to these use cases for whether or not they can caption public video:

Use Case	Can I Caption It?
<ul style="list-style-type: none"> • It's being used to provide an accommodation to an individual with a disability 	YES
<ul style="list-style-type: none"> • It doesn't already have a captioned version 	YES
<ul style="list-style-type: none"> • You receive permission from the creator to caption it 	YES
<ul style="list-style-type: none"> • You have made multiple (but unsuccessful) attempts to get permission from the creator 	YES
<ul style="list-style-type: none"> • It's not being used for education, news reporting or criticism 	NO
<ul style="list-style-type: none"> • It's being used for commercial purposes 	NO

How to Caption Public Video

Auto-captions from YouTube and Vimeo aren't always accurate. When captioning video, using a provider like AST will ensure 99%+ accuracy.

Professionals can use AST's tools to caption public video by:

1. Finding the public URL of the YouTube or Vimeo video you want to caption
2. Submitting the URL for captioning to AST by using the [list of URLs](#) feature
3. Once captioning results are completed, check the request page to generate a [CaptionSync Smart Player](#) link for the video.
4. Embedding the video player in the webpage of your choice - along with closed captioning, a special video frame will appear around the video, with features like interactive transcripts and accessible keyboard controls.

Conclusion

Despite the copyright concerns surrounding captioning public video, taking the initiative and getting the necessary permissions to caption ultimately helps provide equitable and inclusive experiences for everyone tuning in - individuals with and without disabilities alike. AST can assist you.



AST is helping businesses and institutions meet video accessibility compliance needs with a suite of tools like [captioning](#), [transcription](#) and [audio description](#). For more guidance on how to caption public video, [reach out](#).

