

As a result of the spread of COVID-19, many churches now pre-record or live-stream services on social media pages, their own church websites and other online platforms. While online worship is not without limitations, many churches believe that the ability to engage with a modern culture through virtual worship services and Bible studies cannot be ignored. As church leaders consider what the future of online engagement looks like for their respective churches, it is important to take into account concerns involving privacy and intellectual property rights.

Privacy

Churches that record and live-stream worship services should be cognizant of the privacy concerns of members of the congregation. As a society, we are particularly protective of the privacy rights of children. As a result, privacy concerns are heightened whenever a minor is involved. Churches that record or livestream should consider taking the following actions to alleviate privacy concerns of church members.

Obtain informed consent. Consider placing signs at the entrance to the worship center that notify attendees that the service is being recorded. Remind worship leaders, choir, instrumentalists, etc. that they are being broadcasted. Church leaders often meet with individuals prior to a baby dedication or baptism. This meeting is a good time to remind those individuals that the church normally records or live-streams the service and obtain their permission before doing so.

If live-streaming or recording services is new for your church, make an effort to be extra communicative about that fact the first couple of weeks. Pastors and staff should consider making the announcement at a convenient time throughout the service “if you’re joining us from home/on social media...” at the beginning of the service, during a greeting time or during announcements. Consider the effect that the knowledge of being on camera might have with the worship experience and balance those concerns with the desire to allow those not physically in the building to participate in the worship service.

Realize not everyone can or wants to consent. For safety reasons, foster children are not allowed to be depicted on social media. The church needs to be aware that a foster parent cannot consent to a foster child being part of a children’s choir or children’s sermon if it involves the child’s face being broadcast on social media. Victims of domestic abuse may not want a current or former significant other to know their location. Churches should consider contingencies for these situations including not broadcasting the portion of the worship service where children are on camera and/or providing a known section of seating that will never be on camera even if the cameras are panning the congregants during worship.

Copyright

Copyright is a form of intellectual property that allows the creator of a creative work the exclusive right to reproduce, display, redistribute, and make derivatives of the creative work

(“reproduce”) and control expression of the idea the work communicates. The act of someone other than the creator reproducing the creative work without the creator’s permission is called copyright infringement.

1) Public Domain: Some creative works a church may want to use as part of a worship service may not belong to someone else. Some creative works are not copyrightable to begin with, or the copyright for some music, lyrics, videos and images may have expired.

Determining the expiration of copyright can be complicated, but generally the copyrights have expired for any creative work created before 1923. “The Old Rugged Cross,” “Holy, Holy, Holy,” “Just as I Am” and “Joy to the World” are examples of the hundreds of hymns created before 1923 that are not subject to copyright protection. The music and lyrics for these hymns may be reproduced by churches without risking infringement of intellectual property rights.

2) Licenses: A license is permission by the owner of intellectual property rights to reproduce the creative work. Licenses are not without limitations. Here are three important things for churches to remember as they continue online engagement through the reproduction of copyrighted content:

First, licenses do not include permission to use all music, lyrics, videos and images. While most video and music licenses have an extensive database of titles, the database still may not cover all of the songs or movies a church would like to display. A church should check to make certain their license covers a song or video it wants to use before reproducing it.

Second, not all licenses allow for “streaming.” There is a difference between a standard license that allows the church to recreate music and lyrics and a streaming license. Under a standard license, churches can display song lyrics on a projector screen. However, a streaming license is required to perform the song on a social media platform like Facebook Live or YouTube. Even within streaming licenses there can be different categories and costs.

Third, the cost of a license for a church often increases with the size of the congregation or audience. Churches will need to continue to monitor the size of their online audience to determine if a license for a larger audience is needed. The broader and more inclusive the license is, the more expensive it will be to obtain. In addition to any licensing agreement, social media website often have their own rules and requirements for live and recorded broadcasts and churches should familiarize themselves with the terms and conditions of these sites prior to utilizing them.

A creator that discovers a church using his or her creative work without permission may send a cease-and-desist letter or a demand letter. If the demand is not met, a lawsuit could result, even if the infringing content has since been removed. Sometimes there is a delay between when the infringement occurs and when it is discovered. However, computer programs scour the internet looking for infringing uses and often alert the copyright holder’s attorney automatically when a violation is discovered.

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