

52903 - Copying tapes and CDs with the aim of distributing them

the question

We copy religious tapes and give them away for free or sell them very cheaply in order to distribute them more widely, but the tapes are protected by copyright, and our aim is to spread knowledge and da'wah.

Similarly with CDs, it may be difficult and expensive to get hold of original copies. And the purpose of what we do is to spread knowledge.

Detailed answer

Praise be to Allah.

Copyright or the rights of authors, inventors and producers, and other financial and moral rights, belong to the owners of these works and it is not permissible to transgress against them or undermine them without the permission of their owners. That includes tapes, CDs and books.

Reference may be made concerning that to what was written by Shaykh Bakr ibn 'Abd-Allaah Abu Zayd (may Allaah preserve him) about copyright in his book *Fiqh al-Nawaazil*, 2/101-187.

The Standing Committee was asked: Is it permissible for me to record (a copy of) a tape and sell it without asking permission from its author, or from the publisher if the author is no longer alive? Is it permissible to make many copies of a book and sell them? Is it permissible to make a copy of a book and not sell it, rather keep it for myself, if it is marked copyright; do I have to ask for permission or not?

They replied: There is nothing wrong with making copies of useful tapes and selling them, or making copies of books and selling them, because that is helping to spread knowledge, unless

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their authors have stated that this is not allowed, in which case their permission must be sought.

End quote from Fataawa al-Lajnah al-Daa'imah, 13/187

The Committee was also asked: I work in the field of computers, and since I started working I have been making copies of programs to work with them. I have been doing that without purchasing an original copy of these programs, knowing that these programs carry warnings against making copies and their copyright is protected, like the phrase "all rights reserved" which appears on some books. The author of the program may be a Muslim or a kaafir. My question is: is it permissible to make copies in this manner or not?

They replied: It is not permissible to make copies of programs whose authors have forbidden the making of copies without their permission, because the Prophet (peace and blessings of Allaah be upon him) said: "The Muslims are bound by their conditions." And he (peace and blessings of Allaah be upon him) said: "Whoever reaches a permissible thing first has more right to it." It does not matter whether the author of the program is a Muslim or a kaafir who is not in a state of war with Islam, because the rights of a kaafir who is not in a state of war with Islam are to be respected like the rights of a Muslim.

End quote from Fataawa al-Lajnah al-Daa'imah, 13/188.

There is also a statement from the Islamic Fiqh Council concerning intellectual property rights in which it says:

Firstly:

Trade names, trademarks, copyright and patents are all rights which belong exclusively to their owners. In modern times they have come to have a considerable financial value. These rights are recognized according to sharee'ah, and they should not be violated.

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Thirdly:

Copyright and patents are protected by sharee'ah. Their owners have the right to buy or sell them and nobody has the right to violate these rights.

Undoubtedly the authors of these tapes and CDs have expended time, effort and money to produce them, and there is nothing in sharee'ah to indicate that they should not take the profits that result from this work. The one who transgresses against their rights is wronging them and consuming their wealth unlawfully.

If it is permissible to transgress against these rights, then these companies would stop producing these things, because it brings no returns. Their employees would have no motive to work, and undoubtedly stopping this work would result in a great deal of good being withheld from people. So it is appropriate that the scholars have stated that it is haraam to transgress against these rights.

This is the basic ruling, but in some cases it may be permissible to make copies without the author's permission. That applies in two cases:

1 - If something is not available in the marketplace, if there is a need for it and it is charitable distribution, not for sale or for making a profit.

2 - If there is a great need for it and its authors are asking for more than its price, and they have already made enough money to cover the cost of producing this program with a reasonable profit - which is to be decided by people of experience. In that case, if it serves the interests of the Muslims, it is permissible to copy it, so as to ward off harm. But that is subject to the condition that it not be sold for personal gain.

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And Allaah is the Source of strength.

You can contact the companies which produced the material and tell them of the charitable purpose behind it and ask them for permission to make copies, or give them an appropriate price.

And Allaah knows best.