



JOHNETTA PAYE ESQUIRE

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Picture this: Learning the rights to sharing photos



JPAYE

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**JOHNETTA PAYE WILL HELP
ENTREPRENEURS BLOOM
AT 'THE BLOOM
EXPERIENCE' FALL EVENT**



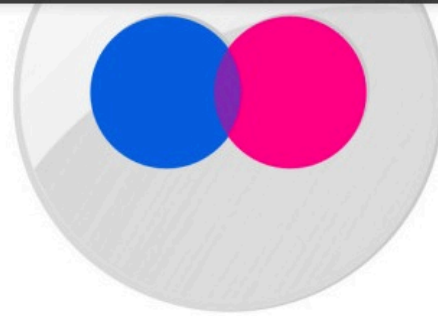
There's a reason that recipe books and food blogs tend to have a photo of the finished dish attached, and it's no secret why the color photos tend to be more attractive to readers' eyes than the black and whites. People like attention-grabbing photos.

According to [Xerox](#), color photos or images will:

- Increase readers' attention spans and recall by 82 percent.
- Gain readership by 80 percent.
- Make an impression that is 39 percent more memorable.
- Be more likely to be noticed via mail by approximately 55 percent.



For obvious reasons, it makes sense that reporters and bloggers alike would want to accompany their posts with images. While some print and online



some print and online publications can afford a photo subscription, even those don't always have evergreen photos needed to make a post stand out. Luckily there are some sites that can be utilized for commercial use, such as [Compfight](#), [Flickr](#), [Morguefile](#), [Pixabay](#) and

[Wikimedia Commons](#).

But with certain photo sites (including the ones mentioned above), make sure to read the fine print. While some professional and amateur photographers are fine with commercial use, don't be surprised if others send a bill for not crediting correctly. And legally, they have a right to do so. The same can be said for Getty Images, Associated Press, etc.

But what about social media posts, especially those of well-known figures? It's easy enough to use an Instagram, Facebook or Twitter embed link or retweet, which is accessible to the public as long as the account is not private. However, there's a gray area when a celebrity publishes a professional photo. While that celebrity may have a right to republish that photograph, that doesn't mean a third party can then make a profit from creating photo galleries and article posts about said photos.

Of course said celebrity can make those particular photos private (or just not post them at all), but if it is on their personal accounts, should

Of course said celebrity can make those particular photos private (or just not post them at all), but if it is on their personal accounts, should bloggers assume these photos are OK to publish anyway? And if the photo looks like it was taken by a nonprofessional, should bloggers be legally able to profit from these pics? It depends.

When posting pictures or other content on social media sites such as Instagram, Facebook, LinkedIn or Twitter, the user enters into a licensing agreement with the social media site.

Let's use Instagram as an example. Instagram's Terms of Use states that the user grants the site a "non-exclusive. Fully paid and royalty free, transferable, sublicensable, worldwide license to use the Content that you post on or through the Service."

But Instagram's Terms of Use also raises the question about how far the licenses a user grants to social media sites carry in the larger world. An argument could be made that Instagram's Terms of Use creates an implied license that allows U.S. bloggers and other third-party users to share pictures posted to Instagram in the wider world. U.S. copyright law does not provide a clear answer to this argument.

A blogger using professional photos, whether on social media or a search engine result, runs the risk of copyright infringement. Copyright law also applies to photos that a celebrity or any individual takes with a cell phone. And sites such as Instagram allow owners of copyrighted work to file a copyright complaint if their copyrighted work is being used without their

copyright complaint if their copyrighted work is being used without their permission. (See [Instagram's copyright complaint link](#).)

Celebrities who are aggressive about policing their copyrighted work will send cease and desist letters requesting the blogger to remove pictures that have been lifted from the celebrity's social media account. (See "[What Can You Learn from Necole Bitchie about Licensing](#).")

However, there are some copyright exceptions like fair use or creation of a derivative work, which may enable a blogger to use copyrighted content from a celebrity's social media account. It is advisable to consult with an intellectual property, copyright or entertainment lawyer to confirm use of these though, especially for commercial use publications and any advertising.

Have more copyright and licensing questions? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

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