
GUIDELINE FOR PEER-TO-PEER VIDEO SHARING

1. INTRODUCTION

The Film and Publications Board (FPB) is an Online Content Regulatory Authority established in terms of the Film and Publication Act 65 of 1996 as amended (Act). The mandate of the FPB is to regulate the creation, production, possession and distribution of films, games, certain publications and the internet by way of classification of content. The Act prohibits sharing of harmful and/or prohibited content such as child pornography, revenge porn, hate speech and content which amounts to propaganda for war, incitement of imminent violence, advocacy of hatred that is based on an identifiable group characteristic, and that constitutes incitement to cause harm.

In terms of section 18F (1) (a) and (b) no person may expose, through any medium, including the internet and social media, a private sexual photograph or film if the disclosure is made:-

- without the consent of the individual or individuals who appear in the photograph or film; and
- with the intention of causing that individual harm.

The Act further stipulates that a photograph or film is “sexual” if such a film or photograph:-

- shows all or part of an individual’s exposed female breasts, anus, genitals or pubic area;
- shows something that a reasonable person would consider to be sexual because of its nature; or
- its content, taken as a whole, is such that a reasonable person would consider it to be sexual (Section 18F of the Act).

2. PURPOSE

The purpose of the guideline is to provide guidance on how to share videos among peers and various peer groups operating in various platforms.

3. CONSTITUTIONAL FRAMEWORK.

South Africa is a democratic state founded on the values of the Constitution. The Bill of Rights is a cornerstone of democracy. It affirms the democratic values of human dignity, equality and freedom. It is therefore critical to consider rights applicable to all when sharing content:

3.1 Right to human dignity

Everyone has an inherent dignity and the right to have their dignity respected and protected.

3.2 Right to privacy

Everyone has the right to privacy, which includes the right not to have-

- (a) their person or home searched*
- (b) their property searched;*
- (c) their possession seized; or*
- (d) their privacy of their communications infringed.*

4. CONSEQUENCES

The following are the negative consequences for video sharing:

- 4.1 You will be committing an offence which will lead to arrest; on successful prosecution, imprisonment or payment of a fine.
- 4.2 Defaming another person and therefore exposing yourself to delictual liability on successful claim; it will lead to payment of damages

3. RULES TO CONSIDER

When determining how content can be shared on peer-to-peer platforms, it is important to consider guidelines that promote responsible and legal sharing while respecting the rights and well-being of others.

The general guidelines would be as follows:

- a) **Respect Copyright and Intellectual Property;**
- b) **Privacy Considerations;**
- c) **Lawful Content;**
- d) **User Guidelines and Terms of Service;**
- e) **Consent and Permissions;**
- f) **Context and Appropriateness;**
- g) **Attribution and Crediting; and**
- h) **User Safety and Well-being.**

Remember that these guidelines provide general principles, and specific platforms may have their own unique policies and guidelines. It is essential to familiarize yourself with the rules and regulations of the particular peer-to-peer platform you are using and abide by them to ensure responsible and ethical content sharing.

3. RESPECT COPYRIGHT AND INTELLECTUAL PROPERTY

Respecting copyright and intellectual property involves acknowledging and honouring the rights of creators and owners of original works.

To assist in determining how to respect copyright and intellectual property the following should be considered:

a) Obtain Proper Permissions

Seek permission from the copyright owner before using or sharing their copyrighted material. This includes written works, images, music, videos, software, and other creative works protected by copyright. If you are unsure about the copyright status or how to obtain permission, reach out to the copyright owner for clarification.

b) Use Public Domain or Creative Commons Works

Utilize works that are in the public domain or are licensed under Creative Commons licenses. These works may be freely available for use with specific conditions outlined by the copyright holder. Ensure that you comply with the terms of the particular license when using such works.

c) Fair Use and Fair Dealing

Understand the concept of fair use or fair dealing for certain limited purposes, such as criticism, commentary, news reporting, research, or educational purposes. Familiarise yourself with the specific criteria and limitations set by copyright laws in your jurisdiction.

d) Attribute and Credit the Source

When using or sharing copyrighted material, provide appropriate attribution and credit to the original creator or source. Clearly acknowledge their contribution by including the name, title, and source of the work. Follow any guidelines provided by the copyright owner regarding attribution.

e) Avoid Plagiarism

Do not present someone else's work as your own. When incorporating or referencing copyrighted material, properly cite and attribute the original source. Plagiarism is not only an ethical violation but can also infringe on copyright laws.

f) Be Aware of Licensing Agreements

Pay attention to licensing agreements, terms of use, or terms and conditions associated with content, software, or other intellectual property. Abide by the terms and restrictions specified in these agreements to respect the rights of the copyright owner.

- g) Seek Legal Advice:** If you have any doubts or concerns regarding copyright or intellectual property, seek legal advice from professionals specializing in copyright law. They can provide guidance specific to your situation and ensure compliance with the applicable laws and regulations.

Remember that copyright laws can vary between countries, and it is essential to be aware of the legal framework in your jurisdiction. Respecting copyright and intellectual property helps protect the rights of creators, encourages creativity, and promotes a fair and ethical use of intellectual works.

4. PRIVACY CONSIDERATION

When sharing content on peer-to-peer platforms, it's important to consider privacy considerations to protect the personal information and privacy rights of individuals.

The key privacy considerations are as follows:

a) Personal Information

Be mindful of sharing personal information that can identify individuals, such as names, addresses, contact details, or any other sensitive data. Avoid sharing such information without the explicit consent of the individuals involved.

b) Consent

Obtain the appropriate consent from individuals before sharing content that includes their personal information. Ensure that individuals are aware of how their information will be used and shared on the peer-to-peer platform.

c) Data Protection Laws

Familiarize yourself with the data protection laws and regulations applicable in your jurisdiction. Understand your obligations as a content sharer and ensure compliance with these laws, including obtaining necessary consent, implementing security measures, and respecting individuals' rights regarding their personal information.

d) Anonymisation and Pseudonymisation

Consider anonymising or pseudonymising personal information before sharing content. Removing or modifying personally identifiable information helps protect individuals' privacy and reduces the risk of unauthorised access or misuse.

e) Security Measures

Take appropriate security measures to safeguard the content and personal information you share on peer-to-peer platforms. Use strong passwords, enable encryption where possible, and follow recommended security practices to minimize the risk of data breaches or unauthorised access.

f) Platform Settings and Privacy Options

Understand and configure the privacy settings and options provided by the peer-to-peer platform. Familiarise yourself with the platform's privacy policies and features that allow you to control who can access and share your content.

g) **Third-Party Access**

Be cautious about sharing content on peer-to-peer platforms that may provide access to third parties or other users. Understand the platform's policies regarding data sharing with third parties and ensure that you are comfortable with the level of privacy and control provided.

h) **Content Moderation**

Consider the content moderation practices of the peer-to-peer platform. Ensure that the platform has mechanisms in place to address privacy concerns, handle user complaints, and remove inappropriate or unauthorised content.

i) **Education and Awareness**

Stay informed about privacy best practices, emerging threats, and changes in privacy regulations. Educate yourself and others about the importance of privacy protection when sharing content on peer-to-peer platforms.

It is important to note that privacy considerations can vary depending on the specific platform, jurisdiction, and nature of the content being shared. Always review and adhere to the platform's privacy policies and terms of service, as well as applicable privacy laws, to ensure that you are respecting individuals' privacy rights when sharing content on peer-to-peer platforms.

5. WHETHER CONTENT IS LAWFUL ON PEER-TO-PEER PLATFORMS

Assessing whether content is lawful on peer-to-peer platforms involves evaluating its compliance with applicable laws and regulations.

While specific laws may vary depending on the jurisdiction, here are some general steps to consider:

a) **Understand Applicable Laws**

Familiarise yourself with the relevant laws and regulations that govern content on peer-to-peer platforms. These may include laws related to copyright, intellectual property, defamation, hate speech, obscenity, child exploitation, privacy, and any other relevant legal provisions.

b) **Review Platform Guidelines**

Consult the guidelines and terms of service provided by the peer-to-peer platform. Platforms often have their own rules and policies regarding the type of content that is allowed or prohibited. Ensure that the content aligns with these guidelines.

c) **Copyright Compliance**

Verify that the content does not infringe upon copyright or intellectual property rights. Ensure that you have the necessary permissions or licenses to use and share copyrighted material. Respect the rights of content creators and owners by avoiding unauthorised sharing of their work.

d) **Avoid Illegal or Harmful Content**

Assess whether the content violates any laws or regulations, including those related to hate speech, incitement to violence, harassment, discrimination, child exploitation, or any other prohibited activities. Content that promotes illegal activities or causes harm should not be shared.

e) **Consider Context and Intended Purpose**

Evaluate the context in which the content is shared and its intended purpose. Certain content may be lawful in specific contexts or for specific purposes, such as educational, journalistic, or artistic uses. Assess whether the content falls within acceptable legal boundaries given its context and purpose.

f) Consult Legal Experts

If you are unsure about the legality of certain content, seek legal advice from professionals specialising in relevant areas of law. They can provide guidance based on the specific jurisdiction and legal framework.

g) Reporting and Compliance

If you come across content that you believe is illegal or violates the platform's guidelines, report it to the appropriate authorities or the platform's moderation team. Cooperate with any requests or investigations related to content compliance and take necessary action to ensure compliance with the law.

Remember that legal assessments of content on peer-to-peer platforms can be complex and may require expert legal advice. Laws can vary between jurisdictions, and it is essential to understand and comply with the specific legal framework applicable to your situation.

6. USER GUIDELINES AND TERMS OF SERVICE ON PEER-TO-PEER PLATFORMS

To determine the user guidelines and terms of service on peer-to-peer platforms, follow these steps:

a) Locate the Platform's Website

Visit the official website of the peer-to-peer platform you are using or interested in. The website typically provides information about the platform's terms of service and user guidelines.

b) Look for Legal and Policy Sections

Navigate to the legal or policy sections of the platform's website. These sections often contain important documents such as terms of service, user guidelines, acceptable use policies, community standards, or similar documents.

c) Read Terms of Service

Review the platform's terms of service thoroughly. Terms of service outline the contractual agreement between the platform and its users. Pay attention to the sections that address user obligations, content sharing policies, intellectual property, privacy, liability, and dispute resolution.

d) Explore User Guidelines or Community Standards

Check for user guidelines or community standards provided by the platform. These documents offer specific guidance on the types of content that are allowed or prohibited on the platform. They may cover topics such as hate speech, harassment, illegal activities, spam, or other content-related policies.

e) Understand Acceptable Use Policies

Some platforms have acceptable use policies that provide further details on the expected behaviour and use of the platform. These policies may cover issues such as spam prevention, user conduct, prohibited activities, and the consequences for violating the policies.

f) Note Specific Requirements or Restrictions

Take note of any specific requirements or restrictions mentioned in the user guidelines or terms of service. This could include limitations on file sizes, content formats, age restrictions, or geographical restrictions.

g) Clarify Ambiguities or Seek Clarification

If you encounter any ambiguities or have questions about the user guidelines or terms of service, contact the platform's support team or customer service. They can provide clarification and guidance regarding specific policies or rules.

h) Stay Updated

Keep in mind that user guidelines and terms of service may change over time. Periodically revisit the platform's website to stay updated on any revisions or amendments to the policies.

It is crucial to familiarise yourself with the user guidelines and terms of service to understand the platform's expectations, rules, and policies. Adhering to these guidelines helps ensure a positive and compliant user experience on peer-to-peer platforms.

7. CONSENT AND PERMISSIONS TO SHARE CONTENT ON PEER-TO-PEER PLATFORMS

Securing consent and permissions to share content on peer-to-peer platforms is an important step to respect the rights of content creators and individuals involved.

The general process to secure consent and permissions is as follows:

a) Identify the Content and Rights Holder

Determine who owns the rights to the content you wish to share. It could be the original creator, author, photographer, or any other person or entity with legal ownership or control over the content.

b) Determine the Purpose and Scope of Use

Clearly define the purpose for which you want to share the content and the specific ways in which it will be used. This helps you communicate your intentions to the rights holder and obtain appropriate permissions.

c) Contact the Rights Holder

Reach out to the rights holder and request their permission to share the content on the peer-to-peer platform. Provide detailed information about the content, your intended use, and any other relevant details. Use a clear and concise message to explain why you want to share the content and how it aligns with the rights holder's interests.

d) Consent Forms or Agreements

In some cases, especially for commercial or more formal uses, it may be necessary to use written consent forms or agreements. These documents outline the terms and conditions of the permissions granted by the rights holder. Consult legal professionals or use standard templates to create consent forms or agreements if needed.

e) Respect the Rights Holder's Decision

Once you receive a response from the rights holder, respect their decision. If they grant permission, ensure that you adhere to any conditions or limitations specified. If they decline or do not respond, refrain from sharing the content without explicit authorisation.

f) Document and Maintain Records

Keep a record of the permissions received and any supporting documentation, such as consent forms or email correspondence. This helps demonstrate your compliance with legal and ethical obligations.

g) Attribution and Credit

If the rights holder grants permission to share the content, ensure that you attribute it appropriately. Credit the rights holder by including their name, title, or any other information specified by them. Follow any guidelines or requirements they provide for proper attribution.

h) Review and Comply with Platform Policies

Familiarise yourself with the specific policies and guidelines of the peer-to-peer platform you are using. Ensure that your sharing of content aligns with their terms of service and any content-sharing rules they have in place.

Remember that the process of securing consent and permissions may vary depending on the nature of the content and the specific circumstances. It is important to communicate openly and transparently with the rights holders and to seek legal advice if you have any uncertainties regarding copyright or intellectual property laws. Respecting the rights of content creators and obtaining proper permissions helps ensure a responsible and ethical approach to content sharing on peer-to-peer platforms.

8. CONTEXT AND APPROPRIATENESS

Assessing the context and appropriateness of content before sharing it on peer-to-peer platforms is crucial to ensure responsible and respectful sharing.

The following steps should be considered:

a) Understand the Platform's Audience

Familiarise yourself with the platform's user base and the audience who will potentially view the content. Different platforms cater to various demographics, interests, or purposes. Assess whether the content aligns with the platform's overall tone and user expectations.

b) Evaluate the Content's Relevance

Determine if the content is relevant and appropriate for the intended audience and the purpose of the platform. Consider the platform's focus, theme, or topic and assess whether the content adds value, contributes to discussions, or aligns with the platform's goals.

c) Analyse the Content's Quality

Assess the quality of the content in terms of its accuracy, reliability, credibility, and overall value. Verify the information presented, fact-check if necessary, and ensure that the content is well-crafted and provides meaningful or useful insights.

d) Consider the Cultural and Social Context

Take into account the cultural, social, and historical context surrounding the content. Evaluate whether the content may be offensive, insensitive, or inappropriate given the context. Be aware of cultural sensitivities, political climate, or ongoing discussions that may impact how the content is perceived.

e) Assess Potential Impact

Consider the potential impact the content may have on individuals or groups. Evaluate whether the content could cause harm, perpetuate stereotypes, incite

violence, or spread misinformation. Strive to share content that is respectful, inclusive, and promotes positive engagement.

f) Seek Diverse Perspectives

Encourage diversity and inclusivity by seeking perspectives from different backgrounds, cultures, or communities. Ensure that the content represents a balanced view and respects the voices and experiences of marginalized or underrepresented groups.

g) Conduct Pre-Sharing Review

Before sharing the content, conduct a thorough review. Read or view the content in its entirety to understand its message, tone, and implications. Consider seeking feedback from trusted individuals or colleagues to gain alternative viewpoints.

h) Reflect on Personal Bias and Intentions

Take a moment to reflect on your own biases, motivations, and intentions behind sharing the content. Ensure that you are not promoting harmful ideologies, spreading misinformation, or using the content for inappropriate purposes.

i) Comply with Legal and Ethical Guidelines

Ensure that the content complies with legal requirements, such as copyright laws, privacy rights, and other applicable regulations. Adhere to ethical guidelines and respect the rights of content creators and individuals involved in the content.

By following these steps, you can assess the context and appropriateness of content before sharing it on peer-to-peer platforms. Remember that responsible content sharing contributes to a positive and constructive online environment.

9. ENSURE ATTRIBUTION AND CREDITING WHEN SHARING CONTENT ON PEER-TO-PEER PLATFORMS

Ensuring proper attribution and crediting when sharing content on peer-to-peer platforms is important to respect the rights of content creators and maintain ethical practices.

Guidelines to consider are as follows:

a) Identify the Content's Source

Determine the original source of the content you intend to share. This could be the creator's name, username, website, social media profile, or any other identifiable information associated with the content.

b) Provide Clear and Visible Attribution

Clearly attribute the content to its rightful owner or creator. Include their name, username, or any other relevant information that identifies them. Ensure that the attribution is prominently visible and easily identifiable in connection with the shared content.

c) Include Link or Reference

Whenever possible, provide a link or reference to the original source of the content. This could be a direct link to the creator's website, social media post, or any other platform where the content was originally published. Linking back to the source allows others to access the original content and supports the creator's work.

d) Follow the Creator's Preferred Attribution Format

Some content creators may specify a preferred format or style for attribution. Respect their preferences and follow their guidelines if provided. This could include specific wording, formatting, or placement of the attribution.

e) Verify Copyright and Licensing

Ensure that you have the necessary rights or permissions to share the content. Check for any copyright restrictions, licenses, or creative commons requirements associated with the content. Adhere to the terms and conditions set by the creator or copyright holder.

f) Credit Collaborators or Contributors

If the content involves multiple creators or contributors, make sure to attribute their contributions as well. Acknowledge their role in the creation of the content and give credit where it is due.

g) Attribute Quotes or Excerpts

When sharing a specific quote, excerpt, or portion of a larger work, attribute it to the original author or speaker. Clearly indicate that it is a quote and provide the necessary attribution in accordance with the creator's preferences.

h) Maintain Integrity of the Attribution

Ensure that the attribution remains intact even when the content is shared or reposted by others. Encourage others to provide proper attribution when they share the content as well.

i) Seek Permission for Modifications

If you plan to modify or adapt the content in any way, seek permission from the original creator. Respect their rights and creative integrity by obtaining explicit consent for any alterations.

Remember, attribution is not only a legal requirement in many cases but also an ethical practice that recognizes and honours the work of content creators. By properly attributing and crediting content on peer-to-peer platforms, you contribute to a culture of respect, fairness, and collaboration.

10. PRIORITISE USER SAFETY AND WELL-BEING WHEN SHARING CONTENT

Prioritising user safety and well-being when sharing content on peer-to-peer platforms is essential to create a positive and secure online environment.

Ways in which to prioritise user safety are as follows:

a) **Verify the Accuracy and Credibility**

Before sharing any content, ensure that it is accurate, reliable, and trustworthy. Misinformation or false information can harm users and contribute to the spread of misinformation. Fact-check the content from reputable sources before sharing.

b) **Consider the Impact**

Assess the potential impact of the content on users. Avoid sharing content that may be offensive, discriminatory, or harmful to individuals or communities. Be mindful of the potential emotional or psychological effects that the content may have on vulnerable users.

c) **Respect Privacy and Consent**

Always respect user privacy and obtain consent before sharing any personal information or sensitive content related to individuals. Be aware of privacy settings and permissions associated with the content you share.

d) Avoid Cyberbullying and Harassment

Do not engage in or promote cyberbullying, harassment, or any form of online abuse. Refrain from sharing content that targets or maligns individuals or encourages others to engage in harmful behaviour.

e) Use Trigger Warnings

If the content contains sensitive or triggering material, consider using trigger warnings. This allows users to make an informed decision about engaging with the content and helps prevent any negative emotional or psychological impact.

f) Report and Address Violations

If you come across content that violates platform guidelines, user safety, or well-being, report it to the appropriate authorities or platform moderators. Take necessary steps to protect users from harmful content, including blocking or unfollowing individuals who engage in harmful behaviour.

g) Foster Positive Engagement

Encourage respectful and constructive discussions among users. Promote inclusivity, diversity, and empathy in your interactions and content sharing. Actively participate in creating a supportive online community.

h) Educate and Inform

Share resources, tips, and information that promote digital literacy, online safety, and responsible content sharing. Help users understand the potential risks and empower them to make informed decisions about their online activities.

i) Be Mindful of Online Etiquette

Follow basic online etiquette and treat others with respect and kindness. Avoid engaging in online arguments, spreading hate, or participating in harmful behaviour. Be a positive role model for others.

By prioritising user safety and well-being when sharing content, you contribute to a healthier online ecosystem that fosters positive interactions, promotes safety, and respects the rights and dignity of all users.

11. CONCLUSIONS

When determining how content can be shared on peer-to-peer platforms, it is important to consider guidelines that promote responsible and legal sharing while respecting the rights and well-being of others.