

**Television Digest, Inc. v. U.S. Tel. Ass'n,
841 F. Supp. 5 (D.D.C. 1993)**

Year	1993
Court	United States District Court for the District of Columbia
Key Facts	Plaintiff Television Digest, Inc. published a daily trade newsletter for the telecommunications industry titled <i>Communications Daily (CD)</i> . Defendant U.S. Telephone Association (USTA) was the national trade association for local exchange telephone companies. USTA purchased and later renewed a single <i>CD</i> subscription. Defendant photocopied <i>CD</i> daily, making between twelve and twenty-six copies per business day, and distributed the copies to its staff. Plaintiff alleged that USTA's daily photocopying of <i>CD</i> infringed their copyright interest.
Issue	Whether photocopying a daily newsletter, for which only a single subscription was paid, and distributing copies to staff members was fair use.
Holding	The court held that USTA's photocopying and distribution of <i>CD</i> to staff was not fair use. First, the court rejected USTA's argument that its use of <i>CD</i> was for educational and news reporting purposes. Instead, it determined that USTA's use was commercial because the copying saved USTA the costs of paying for multiple subscriptions. The court clarified that USTA's status as a non-profit did not compel a finding of fair use. Second, the court found that <i>CD</i> was copyrightable because each issue contained original stories; however, these stories cited information in the public domain, thereby making <i>CD</i> content less protected than creative or literary works. Third, USTA copied entire issues of plaintiff's work each day. The court rejected USTA's argument that its copying was merely for time-shifting purposes because a newsletter may be put aside and read at any time. Finally, the court held that, regardless of USTA's testimony that it would not have purchased additional subscriptions, USTA saved a significant amount of money by not doing so. Therefore, USTA's copying negatively affected the market for plaintiff's works.
Tags	District of Columbia Circuit; Format shifting/Space shifting; News reporting; Textual work
Outcome	Fair use not found

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