

Presidents' Discussion Series
Access Copyright discussion
October 26, 2012

David Docherty, Introduction

This is the second discussion in the President's Discussion Series. This was picked as an important issue for and has pedagogical implications.

MRU opted out of Access Copyright last year and it was a large decision to opt out again this year. Being in Access Copyright is the easiest approach for faculty and has the least amount of risk, but the cost was too high and it was a five year contract.

Carol Shepstone and David Docherty recently attended a workshop with other opt out institutions. While there are a number of unanswered questions there is a network of institutions who are facing the same issues, are supportive and can provide similar solutions.

Gerry Cross

As an Association, we are pleased that MRU opted out of Access Copyright. We need to work on alternatives and we can push the boundaries of fair dealing.

Carol Shepstone

There is strength in numbers. Moving forward we need to take a collaborative approach with those who opted out and develop best practices regarding fair dealing. The recently passed bill, C11, provides some more details on fair dealing: with fair dealing we do not need to participate in Access Copyright. Those who opted in to Access Copyright are locked in for five years and there is no cancellation clause.

Matt Lonsdale, MRU's Copyright Advisor

The Copyright Advisor now works out of the Library rather than the President's Office as this position needed to be more closely linked with academics. This is an exempt position as Matt provides advice for faculty and staff.

Matt is helping develop new policies at MRU in light of new legislation. He is also helping faculty by providing guidance and letting them know what they can or cannot do and how they can find alternatives. The library does have a copyright guide and Matt will be updating it as well as providing Copyright workshops with ADC.

Q: The AUCC model License agreement was no good: will we be happy with their fair dealing policy?

A: The fair dealing policy will allow handouts which is beneficial. They will be following the K-12 which is fairly liberal and will be very useful. The last AUCC fair dealing policy was highly problematic, but this will actually include procedures for specific things which will be very useful.

AUCC has a duty to represent all member institutions: 20 of 94 AUCC members opted out of Access Copyright. AUCC recognizes this and we will likely see much broader policies as a result.

When it is done, the opt-out institutions will be getting together to discuss it. Even Institutions that signed on which Access Copyright will be putting in practice the fair dealing policies so that they are ready to withdraw from Access Copyright when their five year contracts are over.

Q: Has opting out saved time? Do faculty feel more or less comfortable?

A: In the beginning it was fairly difficult for faculty but they are now getting more used to the procedures. A large part of the challenge was that we were not previously as attentive to compliance requirements that we needed to follow even though, and because, we were covered through Access Copyright. The decision to opt out also coincided with a raised consciousness of copyright restrictions. Access Copyright sells rights we already have and now that we are aware of our rights we can work without Access Copyright.

Q: What can be done for faculty / courses that require hundreds of images (e.g. astronomy)?

A: We will need to wait for an answer to this until the fair dealing policy is approved. Faculty still need to reference each image. Faculty should continue to work on getting images with references.

Q: how can faculty, or can faculty, play audio or show videos in classes or post them online?

A: Because of varying degrees of influence, it is much easier to play audio than it is to show a video (or to post).

Since you tube already infringes copyright linking to YouTube is not an infringement of copyright. Linking to YouTube would be fine but you could not show it in class. It is low risk to do this.

Q: What are the implications of Bill C11?

A: One of the most significant changes is that it will change how courts award damages. When something is done that goes against fair dealing the consequences are not as bad as they used to be.

Q: What are potential consequences for contravening the Fair Dealing Policy?

A: The University, not the faculty member, faces the consequences. Although, if someone willfully and knowingly violates copyright the University may not fully represent or stand for that faculty member. When a copyright infringement lawsuit is successful the university would have to pay damages. The new bill lowers the non-commercial use damages to have a maximum penalty of \$5,000. This also reduces the incentive for a publisher to even initiate a lawsuit.

Q: What constitutes willful violation of copyright?

A: This is something that we need to consider. The university would, of course, represent all members who in good faith tried to follow copyright. Due diligence is relevant here.

Q: Has there been a University taken to court for a copyright violation?

A: Not in Canada. There were two cases in the United States where the Universities won; however, these cases are not transferable to Canada.

Q: What is the future of the course pack?

A: There are various considerations involved in this, such as costs, likelihood of students reading them, duplication of materials already owned by students. To improve perceptions of course packs and reduce the likelihood of students having to re-purchase articles they already have, the bookstore can look into putting a table of contents on the front or back cover (since course packs are wrapped).

Turn it In and Safe Assignment

Turn it In is being piloted right now. Before we consider using either tool we need to understand all the implications of text matching software. The program retains papers for future queries but does not release the papers. One significant concern with the program is that it is a US database and therefore subject to the US Patriot Act. Also, there is a presumption of guilt in matching the text first (before reading it). Using a text matching program should be based on concerns after having read a paper.

Q: What is the Student response to the use of such programs?

A: They Support it. It would alleviate some of their concerns if they were able to enter their papers into the system prior to turning them in to ensure that they are not in danger of plagiarism. It would also make them more comfortable knowing that other students are not getting away with cheating.

Comments:

- This seems clear and seems to satisfy standard needs
- It will be helpful having 20 other institutions practicing the same methods in relation to fair dealing
- CAUT considers C11 to be a big victory and a move in the right direction

Use of Teaching materials

- Faculty can bring more images to class than can be easily posted online
 - Faculty still need to reference images
- Faculty can play music/audio recordings for educational purposes fairly freely, there are much more restrictions on the use of movies/videos for educational purposes.

- Linking to/ showing a you tube video is low risk as you tube is already infringing copyright.
- CBC has extensive restrictions for using their materials: the University is trying to work with them. For the time being faculty will need to find any CBC broadcasts they want to show on YouTube. (you can provide a link to CBC's website) You can play CBC podcasts in the classroom.
- With the new policy handouts will be allowed
- Giving links to journals and newspapers is allowed