

TIME TO WALK THE COPYRIGHT TALK

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My first two *WestWord* columns explained the ongoing copyright law review and the damage caused by the 2012 introduction of the educational purposes fair dealing exception. You read what the exception is and what the educational sector considers it to be; how the new exception has adversely affected both writers and publishers; and why it must be repealed or substantially clarified so content users will compensate creators. The facts, the figures and the unfairness. Bottom line: Canadian stories matter to the public and therefore to politicians. If writers are not paid to write, high-quality current Canadian literature will be rarer. Such content will not be taught in the classrooms of our next generation. A coalition of associations across the creative industries understands this issue. “We entrust **Canadian** creators to tell our **stories**,” runs the motto of *I Value Canadian Stories* (ivaluecanadianstories.ca). Inspired by the coalition’s emphasis on narrative, it is timely to share stories.

This past May, the federal Standing Committee on Industry, Science and Technology (INDU) toured Canadian cities from east to west, collecting testimony directly from individual creators and publishers. Regrettably, INDU did not touch down in Alberta. However, Matt Bin, past president of the Canadian Authors Association and current secretary of the Canadian Copyright Institute, did attend when INDU convened at a Toronto hotel. “The room was not very full,” he lamented. On the positive side, all but one speaker addressed the need to compensate use of literary materials fairly. “A nonfiction writer said her publisher’s royalty payments dropped because schools were no longer buying her books—they were just copying from them,” said Bin. “A fiction author said his revenue had gone way down because Access Copyright payments had decreased.” The

more creators must rely on day-job income to survive, the less time they have to create. That means reduced output. It is that simple.

Another story came from Glenn Rollans, president of the Association of Canadian Publishers (ACP). In that capacity, he too was a witness for INDU. “I’m amazed I’ve had to devote so much time advocating for such a simple principle: [that using something without paying for it causes harm to those who created it]. Especially since if [educational institutions] were to lose the battle and have to agree to licenses or obey [long-standing] tariffs, their lives and operations would go on essentially unchanged, whereas losing copyright protection for writers and publishers is truly an existential issue.”

One ACP member related an anecdote illustrating the “huge problem” educational institutions have imposed upon independent publishers. The publisher received an enquiry from an Ontario university professor about a book to be released. The professor sent her course outline, which showed no textbook, but rather a list of book chapters and journal articles posted online for student access. Imagine the publisher’s surprise to note the syllabus included several chapters from books he had published or was about to publish, chapters the university had never requested permission to copy. “The most galling aspect of this,” said the publisher, “is that the prof asked us to provide her with a free copy of the [new] book!” Will that free copy be used to make unlimited copies for students? If so, then the university will have used but not paid the publisher for a single copy of that book.

It is impossible for publishers to know “how much of this is going on.” However, “it surely illustrates why payments for our work through copyright have decreased so drastically. [It also shows] how much educators value the content we produce ... and the complete disregard for how others make their living.”



Last, a personal story. To walk my talk, I met with my Member of Parliament Randy Boissonnault. I recapped the history of the educational purposes exception and outlined recent litigation. Access sued York University and won. York appealed. The provincial ministries of education have now sued Access. His eyebrows went way up when I mentioned that last lawsuit. Following our meeting, Boissonnault wrote a letter to his colleagues at INDU, advocating for creators. He grasped the problem and its solution: removing or limiting the scope of the fair dealing exception for educational purposes. ■

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TAKE ACTION

Writers must speak up now, while the federal government is still listening. The educational sector is lobbying vigorously and so, too, must we.

What you can do:

- Join *I Value Canadian Stories*: ivaluecanadianstories.ca
- Write your MP: ourcommons.ca/Parliamentarians/en/members/addresses
- Submit a brief to INDU: indu@parl.gc.ca —a guide is available on the government website: ourcommons.ca/About/Guides/Brief-e.html