

# Policy Manual

## Issues Policy

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### **Issues Policy 06 (IS-06): Copyright**

Adopted by: Board of Directors

Adopted on: March 22, 2011

#### **Summary:**

Copyright is of significant importance to the post-secondary education community due its central role in the creation, distribution, and sharing of knowledge. Students are particularly affected as they both create and use artistic, literary, and other potentially copyrighted works during their studies.

As creators and owners of copyrighted works (essays, articles, theses, and multi-media productions), students need to protect their work from unjust appropriation. However, to study, research, and create new knowledge, students also need ready access, at a reasonable cost, to the copyrighted works of others. This unique position provides students with a strong understanding of the need for copyright legislation that achieves a balance between the rights of creators, owners, and users.

Investment in creation and innovation by creators often requires that they benefit financially from their works. However, if copyright provisions too heavily or rigidly restrict the ability of the Canadian public to access and make use of these works for fair and reasonable purposes, it will hinder further creativity and innovation.

Further, as educational institutions and society at large moves further into a digital age, new challenges arise in regard to copyright. While copyright legislation must adapt as technologies change the formats and distribution mechanisms of copyrighted works, no technological change will diminish the need for the balance of rights under that legislation.

Students are best served by copyright legislation that fairly balances the interests of creators, owners, and users of copyrighted works. It is only with such a balance that a robust information commons – a space where information and knowledge exist as a shared heritage – can thrive.

#### **Policy:**

- I. The Union supports:
  - a. Copyright legislation that achieves a balance between the rights of creators, owners, and users of copyrighted works;
  - b. An information commons in which ideas and information are not property, but rather a shared heritage of humanity, as integral to Canada's social and economic well-being;
  - c. The equal application of all copyright provisions and limitations across all formats and distribution mechanisms of copyrighted works;
  - d. A flexible definition of fair dealing, interpreted in a broad and liberal manner, that includes, but is not limited to:
    - i. Research and private study;
    - ii. Criticism and review;
    - iii. News reporting;

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- iv. Education;
    - v. Satire and parody;
  - e. Copyright legislation that includes a test for the determination of fair dealing, such as that applied by the Supreme Court of Canada in *CCH vs. The Law Society of Upper Canada*;
  - f. Protection for creators against waiving moral rights as part of any publishing or distribution agreement;
  - g. Regulations on the use of anti-circumvention measures, technological protection measures and all other forms of digital locks, that prevent them from being applied in a manner that would violate users' rights;
  - h. Management of the availability of copyrighted works on the Internet through a "notice-and-notice" regime, by which a copyright owner can provide notice of suspected infringement to an Internet Service Provider hosting the content in question, which, in turn, would provide notice to the subscriber making the content available;
- II. The Union opposes:
- a. The subsistence of copyright protection on works of the Crown;
  - b. Specific and limited exceptions for fair dealing use of copyrighted works in an educational context;
  - c. The treatment of the act of circumventing digital locks to access copyrighted works for fair dealing purposes as criminal;
  - d. The statutory protection of anti-circumvention measures, technological protection measures, and all other forms of digital locks;
  - e. The availability of statutory damages in cases of copyright infringement where an infringer acted with good faith that their actions with respect to a work are justified by fair dealing or other limitations, as such availability undermines the meaningful exercise of fair dealing and other user rights;
  - f. The ratification of international treaties and conventions by Canada that limit users' rights beyond the scope of the Copyright Act;
  - g. Extended licensing in educational institutions that lead to increasing user fees for access to academic material on the Internet;
  - h. Management of the availability of copyrighted works on the Internet through a "notice-and-takedown" or similar regime, which creates incentives for Internet Service Providers, upon notice from copyright a owner, to remove content without warning or evidence of actual infringement, to pass along a subscriber's personal information, or to cancel a subscriber's service.
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