

# Where do we go from here?

## Exploring the boundaries of fair dealing.

Speakers:

- Rumi Graham, University Copyright Advisor, University of Lethbridge
- Meera Nair, Copyright Officer, NAIT

Moderator: Amanda Wakaruk, Copyright Librarian, University of Alberta

A panel and conversation that looks ahead to the upcoming *Copyright Act* review and considers the political, legal, and educational atmosphere surrounding fair dealing. How might the post-secondary community (PSC) promote and support fair dealing for the betterment of all Canadians?

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## Exploring the boundaries of fair dealing.

Rumi Graham, LL.M, P.h.D., University Copyright Advisor, University of Lethbridge

“Copying that encourages learning: Subject to a customary price or within copyright’s breathing space?”

Meera Nair, P.h.D., Copyright Officer, Northern Alberta Institute of Technology (NAIT)

“Six factors if necessary but not necessarily six factors.”

# Copyright Act (R.S.C., 1985, c. C-42)

## Review of Act

**92** Five years after the day on which this section comes into force and at the end of each subsequent period of five years, a committee of the Senate, of the House of Commons or of both Houses of Parliament is to be designated or established for the purpose of reviewing this Act.

1997, c. 24, s. 50; 2012, c. 20, s. 58.

<http://laws-lois.justice.gc.ca/eng/acts/C-42/page-34.html#h-99>



HEATHER MENZIES

# The copyright act needs to be edited – for writers’ survival

HEATHER MENZIES

Special to The Globe and Mail

Published Thursday, Jan. 14, 2016 5:07PM EST

<http://www.theglobeandmail.com/opinion/f/article28197828/>

# COPYRIGHT DECISION IGNORES CULTURAL



# THE HILL TIMES

Press Release

News Opinion Global Power & Influence Politics Policy Br

Toronto – Cana  
of the Copyrigh  
Union of Canac  
damage cause  
market failure.

## Copyright disagree educational secto

'Boiled down, the concern is this—Canada's  
copied and republished as educational cour  
anyone else providing a professional good or service to a customer,  
writes John Degen, executive director of The Writers' Union of Canada.

<http://www.theglobeandmail.com/arts/books-and-media/kate-taylor-kids-will-suffer-if-canadas-copyright-legislation-doesnt-change/article29720114/>



By JOHN DEGEN

PUBLISHED : Wednesday, March 2, 2016 2:48 PM

"This is further proof of the damage caused by the 2012 changes to the Copyright Act."

<http://www.hilltimes.com/2016/03/02/copyright-disagreement-between-educational-sector-and-writers-ongoing/52640>

<http://www.writersunion.ca/news/copyright-board-decision-ignores-cultural-damage>

# Kate Taylor: Kids will suffer if Canada's copyright legislation doesn't change

KATE TAYLOR

The Globe and Mail

Published Friday, Apr. 22, 2016 2:25PM EDT

Last updated Friday, Apr. 22, 2016 2:28PM EDT

# Fair Dealing and the 2017 *Copyright Act* Review

What we (PSC) know:

- entire Act will be up for review
- House of Commons Standing Committees on Canadian Heritage; Industry, Science, and Technology
- multiple stakeholder groups
- fair dealing is one of the provisions that will likely be considered

What this might mean for PSC:

- could restrict or change our current fair dealing practices
- could reaffirm or extend our current fair dealing rights
- changes in other sections of the Act might affect the way we interpret and use fair dealing

# Questions

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- We are guided by court decisions and legislation when making decisions about fair dealing. Given that technological improvements generally outpace both, how do we encourage risk averse users to explore existing fair dealing boundaries blurred by technological improvements (e.g., fair dealing as an argument for using third party content in MOOCs/OERs/OA theses)?
- Content stakeholders have established associations that represent their copyright needs. These groups have made claims about the damaging effects of fair dealing on various cultural industries. What is the greatest risk that fair dealing poses to rights holders?
- What two things related to fair dealing would you like to see addressed in the upcoming *Copyright Act Review*?

# Questions

- What are the risks to the public good if education as a fair dealing purpose is removed from the provision in the Act? How do we better communicate these risks?
- Users of copyright protected works do not have natural representative stakeholder groups. Organizations that represent libraries and institutes of higher education are expected to take on this role. Is this reasonable? If yes, what can they do to better represent users during a legislative review? If not, how should users/the public be represented?
- How can academics and other educators contribute to the review process?



# Recommended Reading

Knopf, Howard. “Copyright Reform in Canada – the 2017 Section 92 Review.” Excess Copyright blog. January 13, 2017. [http://excesscopyright.blogspot.ca/2017/01/copyright-reform-in-canada-2017-section\\_13.html](http://excesscopyright.blogspot.ca/2017/01/copyright-reform-in-canada-2017-section_13.html)

Nair, Meera. “Fair Dealing Week 2017.” Fair Duty blog. February 19, 2017. <https://fairduty.wordpress.com/2017/02/19/fair-dealing-week-2017/>