Teaching an invisible subject
How are we educating faculty about copyright?

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Background
The SFU Copyright Office has long felt we aren’t reaching as many instructors with copyright information as we would like to, despite workshops each semester at each campus, regular surveys of instructors, and broadcast emails to faculty and non-faculty instructors. Dr. Valenino (2015) found that 40% of Canadian teaching faculty don’t know if their institution offers copyright training (p. 6). Reaching instructors is difficult. Instructors work autonomously and are siloed in different departments and campuses; have a variety of employment statuses (i.e., faculty and non-faculty, FT and PT); and may work from a distance. It can be unclear when copyright has been infringed, and breaking the rules won’t impede teaching. These rules (including law, case, law, and guidelines and best practices) have changed frequently and drastically in Canada in recent years.

Research questions
How are copyright administrators reaching instructors with information about copyright and how it affects their teaching?
What are the most common methods of educating instructors, and how are these opportunities communicated?
How effective do copyright administrators feel their offerings are at enabling instructors to find, use, and create teaching materials responsibly?

Methodology
Copyright contacts or heads of libraries for the 63 English-speaking and bilingual Universities Canada member institutions with available contact information were invited to participate. The survey remained open for three weeks, with a reminder email sent after about ten days. Thirty-two responses were received (50.8%). All questions were optional but most respondents answered most questions. Seventeen respondents consented to a follow-up survey. Thirteen of these addressed three to six questions elaborating on their initial responses.

Findings
Did not find the “ideal” way to reach and educate a broader group of instructors.
Did find that many copyright administrators are taking a more strategic approach to instructor education by:
• going where instructors are by presenting at departmental meetings,
• educating administrative figures in departments (whom instructors often approach first with teaching issues and questions), and/or
• having authority figures (e.g., deans, provosts) advertise on their behalf to lend weight to copyright messaging.
Not many copyright administrators are actively assessing their copyright instruction, or the general level of copyright knowledge at their institutions – yet most respondents feel fairly confident that their educational opportunities are effective, based on experience, anecdotal evidence, and questions from faculty.

Discussion
Past-secondary institutions in Canada have moved away from collective licensing schemes with organizations Access Copyright and Copibec. This is due in part to the “pentalogy” of copyright cases in 2012 (see sidebar), which reinforced users’ rights under fair dealing (see Grise, 2013). Access Copyright is in the process of suing York University, and Copibec may continue its suit of Université Laval, in part over their reliance on fair dealing guidelines. In 2017 Parliament will be reviewing the Copyright Act, and we are already seeing heavily lobbying from these and other creator rights organizations.

Conclusion
Past-secondary institutions in Canada have moved away from collective licensing schemes with organizations Access Copyright and Copibec. This is due in part to the “pentalogy” of copyright cases in 2012 (see sidebar), which reinforced users’ rights under fair dealing (see Grise, 2013). Access Copyright is in the process of suing York University, and Copibec may continue its suit of Université Laval, in part over their reliance on fair dealing guidelines. In 2017 Parliament will be reviewing the Copyright Act, and we are already seeing heavily lobbying from these and other creator rights organizations.

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References


Fair dealing
Canada’s Copyright Act
“Fair dealing for the purpose of research, study, education, parody or satire does not infringe copyright.”

“Fair dealing for the purpose of criticism or review does not infringe copyright if the source and (if available) the author, performer, maker, or broadcaster is mentioned.”

“Fair dealing for the purpose of news reporting does not infringe copyright if the source and (if available) the author, performer, maker, or broadcaster is mentioned.”

Canadian case law: CCH Canadian Ltd. v. Law Society of Upper Canada, 2014 SCC 13
Publishers challenged the Law Society’s practice of making photocopies of articles for students. The court found the copying to be fair dealing for the purpose of study, and the work to be non-commercial, liberal interpretation in order to ensure that users’ rights are not unduly constrained (para 55). The court stated six criteria to consider when determining the fairness of a specific instance of use:
• the purpose of the dealing
• the character of the dealing
• the amount of the dealing
• whether the dealing was fair in the circumstances
• the effect of the dealing on the work
• the nature of the work

The copyright pentalogy
These cases collectively emphasized a “large and liberal” interpretation of fair dealing.
Alberta (Education) v. Canadian Copyright Licensing Agency (Access Copyright), 2012 SCC 37
Can photocopies made by teachers and distributed to students as part of class instruction be considered fair dealing? In short, yes; this is fair dealing for the purpose of private study or education as added as a fair dealing purpose after this case was heard.

Does the provision of song previews (excerpts) for consumers require payment of royalties? No; these provisions are fair dealing for the purpose of research.

Entertainment Software Association v. Society of Composers, Authors and Music Publishers of Canada, 2012 SCC 34
When video games are sold online, is the right to communicate by telecommunication for embedded music triggered, thereby requiring additional royalties? No.

Rogers Communications Inc. v. Society of Composers, Authors and Music Publishers of Canada, 2012 SCC 33
Is there a right of a musical work a “communication to the public,” when individuals might receive it on demand at the time of their choice? No.

ReSound v. Motion Picture Theatre Associations of Canada, 2012 SCC 38
Are a contributor to a soundtrack eligible for additional royalties when the movie is performed in public? No.