



What is educational “fair dealing”?

Tuesday, September 16, 2014

Over the past 18 months nearly every Canadian university, college and school board outside Quebec has adopted “fair dealing” content use guidelines closely mirroring those distributed by CMEC in the 3rd edition of *Copyright Matters!*

While some will point to this as proof of emerging consensus on “fair dealing” best practices for education, it is not the type of broad-based consensus that leads to constructive, lasting solutions.

Among those who produce content for educators and students there is grave concern over the effect these policies are already having on the industry and what it will mean for the future availability of Canadian content in our classrooms. There is also disappointment at the coordinated promotion of practices that appear hostile towards domestic publishing for education.

A call for sustainable "Fair Dealing" policies i...



These new policies authorize and encourage copying based on a definition of “fair dealing” that is not supported by the law. Instead, they represent what some of the education sector’s lawyers and administrators would like the law to be. Nothing in the new copyright act or recent Supreme Court decisions suggests that “fair dealing” for education extends to the deliberate, systematic copying of published content for aggregation and delivery to support student instruction.

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There is little doubt that the content and copyright landscapes are evolving. Over the past decade educational copying has migrated away from central photocopying hubs towards convenient, digital file sharing. And factors like Open Access resources and library database subscriptions are a significant part of the mix today, though usage continues to extend well beyond these areas.

Despite all the current debate around scope of educational “fair dealing,” any evaluation of fairness will necessarily involve an assessment of usage. That is why developing a fact-based understanding of usage should be a matter of integrity for all concerned. Fairness, after all, can’t be endangered by the facts.

The data we’ve collected shows that educators today share more content with students than ever before, whether it’s by handout, printed coursepack, emailed attachment, upload to learning management system, or other means. With articles from magazines, newspapers and journals; chapters from books and textbooks; sections of published non-fiction, literature, photography, art; and much more; educators create customized reading and viewing that supports curriculum.

The value of flexible content use for educators and students is without question. However continued access to valued Canadian content is unsustainable without a system that fairly rewards creators and publishers. At Access Copyright we believe that copyright should work for everyone and that’s why we’re dedicated to finding new and innovative ways to serve the education community’s content and copyright needs.

Please view the above video about the need for balanced “fair dealing” policies in education, share it with your peers, and join the conversation. #AccessCopyright #FairDealingBalance

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- Portal
- Affiliation
- Payback
- Royalty Distributions
- FAQs

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- Portal
- Affiliation
- Repertoire Payment
- Royalty Distributions
- FAQs

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- Read Aloud Canadian Books
- Universities & Colleges
- Public Schools
- Independent Schools
- Languages Canada Private
- Sector Members
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