

## **Repeal Fair Dealing for Education**

As you consider Canada's cultural policies, I think that you need to reconsider the fair dealing clause in the revised copyright act. The copyright act is intended to protect what creators create. The fair dealing clause removes that protection, impinging on creators' ability to earn money from what they produce.

I currently work as a freelance writer who specializes in the children's market. For 30 years, I spent the bulk of my time editing and project managing the development of textbooks for Canadian educational publishers. I was on the first board of CANCOPY (now Access Copyright). As one of the co-chairs, I assisted in negotiating the first Ontario educational licence. At that time, I had a copy of one of Dr. Zed's titles. The entire book had been made into spirit masters; copies had been handed out to students in my son's kindergarten class. My publisher co-chair at the time headed the company that published the most copied educational resource, a workbook for teaching French as a Second Language.

Twenty years later, copying is even easier, thanks to bulk copiers and the prevalence of personal scanners. Copies can be shared online and using various phone apps via digital downloads. And yet the government have removed important protections from created works. If the government will not protect the works that authors and publishers have spent so long producing, then what is the point in Canadian authors and publishers trying to produce quality materials?

Since the change in the fair dealing clause, I have heard horror stories from authors telling me of schools who bought their books, photocopied sections, and then returned the books for a refund. Students again receive booklets of photocopied materials to help them learn to read. But without the colourful images in the originals, the books have lost much of their attraction. No wonder literacy levels are low.

In my own freelance business, I noticed a drastic drop in the number of project start-ups after the fair dealing clause was changed to the current wording. Instead of hiring twelve or more editors to help me develop materials, and contracting creators to produce materials specifically for this market, I found myself looking for work.

I found it working on materials developed for the American market. These materials were quickly produced without the care lavished on those developed in Canada. They also emphasized different skill sets. In my work on mathematics materials developed for both the Canadian and American markets, for example, I noticed that the many Canadian series I helped to develop emphasized understanding whereas the American ones focused on memorization of algorithms without much understanding of why they're being used.

If the government does not move to better protect our educational publishers, our schools will be more likely to purchase these less-than-ideal materials. It's a matter of economics. For American publishers, making slight conversions for the Canadian market is a minor expense when they've already developed and sold a series to a large American market. Canadian publishers who develop excellent materials for a smaller market need protection. In order to respond to Canadian educational outcomes, they include references to local historic, Aboriginal, and cultural activities that attract Canadian students to the topics. This type of information is missing in materials developed for the United States market. Similar American-centric information occurs in non-fiction trade books intended for a North American audience. Canadian content receives only a cursory attention compared to the mass of American data.

Although educational publishers are not always considered to be part of the Canadian cultural landscape, they are an important tool for teaching Canadian culture. Many creators receive income from these publishers, both as royalties and as contract work for materials written specifically for the market. In addition, many editors work part-time in this field while they develop their writing skills and/or to supplement the low income typical of creators.

To encourage Canadian publishers to develop quality materials that can compete in international markets, I suggest that you

- 1.** Repeal the current fair dealing wording in consultation with Access Copyright and educational publishers and their knowledge of how that wording has led to flagrant misuse of copyright works.
- 2.** Confer with children's authors about how this clause has impinged on their ability to make a living from their work and work to ameliorate this situation.
- 3.** Provide additional arts funding for author visits to schools. This is an important part of many creators' incomes, one that has eroded with the increase in interest in technology and the purchase of fewer books.
- 4.** Ear-mark some of the funding from #3 for sessions in which authors talk to educators about the importance of copyright to the protection of creator income.

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