

Creative Commons Canada testimony before the Standing Committee on Industry, Science and Technology as a part of the Statutory Review of the Copyright Act of Canada

29 October 2018

Hello and thank you for inviting me today. I would like to begin by acknowledging that the land on which we gather is the traditional and unceded territory of the Algonquin nation.

My name is Kelsey Merkley, I'm here as a public citizen, and representative of Creative Commons Canada. We're part of a global nonprofit organisation established in 2001 with 26 country chapters worldwide, each working with artists, librarians, scientists, filmmakers, and photographers.

We create, maintain, and promote the Creative Commons license suite. These are globally recognized copyright licenses that are free to use that allow for creators to choose how their works are reused under simple, standard terms.

Globally, the CC licenses have been applied to over 1.4 billion works around the world.

What powerful to me about the 1.4 billion works is that individuals made an active decision to share - to share over 1.4 billion times

If you have used one of wikipedia's 40 million articles, downloaded a photo from Flickr, watched videos on YouTube you have come in contact with our licences, both in commercial and non-commercial settings.

Some examples of our licences in the world include:

Lumen Learning which permits commercial reuse under an open license to the over 280 institutions in the US. This year alone they have had over 4 million visits to their Open Education Content per month.

In multiple instances Lumen has demonstrated that their supported OER offering eliminates the performance gap between low Socioeconomic Students and higher Socioeconomic students.

Here in Canada the globally recognized leader in Open Textbooks, BCCampus has saved economically scarce students in British Columbia over \$9million in textbooks savings through canadian created open licensed textbooks.

Canadian science fiction and young adult author Cory Doctorow chooses to license many of his books under a CC noncommercial license, which grants access to everyone as long as they don't resell his creativity.

Researchers at MaRs - in the Structural Genomics Consortium, Aled Edwards and Rachel Harding, have used the most open licence - CC BY Attribution - to accelerate the pace of scientific discovery by opening up their lab notes to other researchers around the world without restriction.

The New York Public Library, The Met, the Rijksmuseum, and most recently Europeana All share works under a Creative Commons licence to allow for their collections to travel globally.

We advocate and offer advice to governments and institutions who want to use open licenses to help their citizens access content: we've offered advice to the European Space Agency, the US State Department and US Department of Education, and the European Commission. All of them have used CC licenses in their publically funded works to benefit the public.

Here in Canada, Quebec was the first government worldwide to adopt the CC 4.0 licence to all open data released by the province.

I'm grateful to the committee for the opportunity to offer a few thoughts and suggestions as you continue your review of potential changes to the Copyright Act.

1. The public domain is harmed by copyright term extension

Fundamentally, we firmly believe that all creativity builds upon the past, and that promoting and protecting a robust public domain is central to our mission. Why? Because works in the public domain may be used by anyone without any restrictions. Works in the public domain become the raw material for creativity and innovation.

The Committee should not reopen the term discussion under the Copyright Act. If the term is to be extended 20 years, then significant considerations should be given to other permitted uses and clearer fair dealing to mitigate its impact on education, creativity, and innovation.

2. Permit creators to reclaim their rights

We endorse Bryan Adam's recommendation to this committee for Canadian creators to reclaim their rights from 25 years after death to 25 years after assignment.

3. Protect fair dealing, especially for education

Fair dealing for education is crucial to ensure that copyright law fulfills its ultimate purpose of promoting essential aspects of the public interest.

4. The right to read should be the right to mine

Considering the massive potential for novel research discoveries, advancement in AI and machine learning, and Canadian innovation, the Copyright Act should clarify that "the right to read is the right to mine." It should ensure that these non-expressive / non-consumptive uses (like text and data mining) are included under the fair dealing framework, or broadly supported via other legal measures.

5. Improve open access to government funded education, research, and data

The sharing of works under Creative Commons licenses is a legitimate exercise of copyright, and should be the norm for all publicly funded resources such as research, educational materials, government-collected data, and cultural works.

Canada should reform the Crown Copyright regime because all Canadians should have the right to access and re-use without restriction works produced by their government. Canada should place these materials directly into the public domain at the time of publishing.

I hope that your questions will allow me the opportunity to speak more the public value and scientific opportunity of Open Access publishing.

Gratitude is at the centre of what we do, so I'll end here with thanks to for extending this invitation to me to join you here.