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Awareness and Perception of Copyright Among Teaching Faculty at Canadian Universities

Lisa Di Valentino

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In 2013 I did a [study](#) looking at whether the 40 largest Canadian universities had updated fair dealing policies, and whether they managed copyright with the help of an Access Copyright blanket licence. I found that 54% had a licence with Access Copyright, and 66% had an up-to-date fair dealing policy available on their web sites.

Last year I did a [semi-update](#) and found that the numbers had changed. Now, 54% of the universities in the sample were *not* licenced with Access Copyright, and eighty percent have an updated fair dealing policy available on their web sites, most being based on the model policy of the Association of Universities and Colleges of Canada. Now it's only two points in time, so I can't claim that there is a trend, but taking other factors into account I expect that these numbers will continue in that direction. In fact, many institutions have to make a decision this year as to whether they will continue with their current licences. So this means that copyright is being managed more and more "in-house", and that faculty can no longer rely on the ostensibly clear but stricter limitations of the Access Copyright licence. There is more focus on the exceptions in copyright law such as fair dealing, which can be a bit "fuzzier" in application from the point of view of the user. And the educational exceptions are more circumscribed than fair dealing in that the permissions are clearer, but there are also more limitations which can sometimes be confusing.

So more schools have an updated policy these days, and that's very good news, but having a policy is only part of the solution. It needs to be communicated to and understood by those who are expected to abide by it, for example, university faculty.

I wanted to see what university faculty thought about copyright and their institution's policy and training efforts, and whether they took advantage of them. I also wanted to know what faculty actually did when they are faced with copyright questions in their teaching, and I wanted to hear it from them.

There have been a few U.S.-based and international studies done on the effectiveness of copyright training and copyright communication. Most of them have pertained to educating librarians and library staff. A couple have looked at copyright education of faculty. In 2006 a group of librarians provided a survey to faculty members at two health sciences departments in Alabama and Texas. They found that respondents reported a limited knowledge of copyright and admitted gaps in their understanding, but that they did not want a required copyright course due to time constraints.

There are also a couple of articles from 2007 and 2010 that describe efforts at developing copyright education programs in U.S. universities.

In the Canadian context, Jean Dryden provided a questionnaire to archivists about their knowledge of copyright and where they get it from. She published her findings in 2010 and concluded that copyright knowledge varies widely.

Also in 2010, Tony Horava published "Copyright Communication in Academic Libraries: A National Survey." He wanted to look at how copyright issues are communicated to the university user community via the library and librarians. He collected data via a survey and follow-up interviews. The respondents were directors or managers of universities libraries. Among other things, the respondents indicated that librarians mostly engaged in individual assistance in terms of copyright awareness and education. The next most-used strategy was information literacy programs, and then faculty liaison and outreach. Respondents also said that faculty liaison and outreach were the most important methods of raising awareness.

My research is based on Horava's, only looking at the issue from the other side. I devised a survey that asked teaching faculty about whether their institutions had copyright policies or training. I also asked if they took advantage of the training and where they went if they had questions about copyright. Then I provided a few copyright-related scenarios that often arise in teaching, and asked them how they would respond.

I wanted the survey to circulate as widely as possible among many universities, so I used the list of members of the AUCC and contacted the respective faculty associations (whether

union or not). I asked them to distribute the request to their members. The survey was open from October 27 to December 2, 2014. I ended up with 201 complete responses.

Demographically, a quarter of the respondents were in the Arts & Humanities, followed by Science, then Health Sciences.

The survey then asked whether the respondent's university had a copyright policy or set of guidelines. Really though I wanted to know whether the respondent knew about the policy or guidelines. Just over 90% said that it did, so that was encouraging.

Then I asked whether the university offered training in copyright literacy to faculty. While 40% said that it did, another 40% said that they didn't know.

For those who said "yes", a follow up question asked what kind of training is offered. The respondents could choose more than one option. The majority of these respondents (70%) indicated that workshops were offered, as well as one-on-one sessions at 37.5%, and online tutorials at 19%. Another follow up question, for those who said that their university offers training, is whether they have personally attended any of this training. Only about one third attended training. However, of those that attended training, only one of them said that their knowledge of copyright was not in any way enhanced by the experience, while the rest said that their copyright knowledge was "greatly" or "somewhat" enhanced. So training and education works from the point of view of the learner, if you can get them to go.

The next set of questions asked whether they sought copyright information from another person in the past 12 months. It was about evenly split with somewhat more responding that they hadn't. Of those who did, more than half of them asked a librarian. Forty percent asked a colleague. (Note that they could choose more than one response.) Some asked people who were not on the list of options, such as a copyright officer or an e-mail list such as ABC Copyright. And all but three found an adequate answer to their question. Of the three who left unsatisfied, two had asked colleagues and one a librarian.

Then I asked if they had consulted any print or online resource in the past 12 months for answers to a copyright question. Slightly more had than hadn't. More than half went to the university policy and 46.6% went to their university's web site (which is a bit surprising, I

would have guessed it would be more). Thirty one percent went to another web site, and 23% went straight to the Copyright Act. So there is a lot of variation here. And again, the vast majority found an adequate answer although a few more were disappointed as compared to those who asked human beings.

I was not able to find any statistical relationship between who or what was consulted and whether they received an adequate answer. This is probably because there were so few responses that indicated inadequate answers.

As I mentioned, the survey included four scenarios to see how respondents would act if they were deciding how to use information in teaching.

The first scenario asked if they would show a YouTube video to students during class, if the video was on an official-looking account. More than half said that they would show the video, while 16% would ask the copyright owner for permission, and 14% would ask someone else such as a librarian. Seven and a half percent said they would not show the video at all. This scenario is based on the [new educational exception for Internet materials](#), which states that it can be displayed if there is no notice stating otherwise, and the instructor has no reason to believe that the posted material is itself infringing copyright.

In the second scenario, the instructor has a copy of an older academic article in print that cannot easily be found elsewhere. The question was whether they would scan the article and upload it to a learning management system. Thirty-two percent said they would ask someone such as their department head or librarian whether they can do this. The next highest response was to upload the article, at 27.4%. Eighteen and a half percent would ask permission from the copyright owner, but 15% would not upload it. This sort of thing would probably fall under [fair dealing](#), even under the more restrictive policies such as the AUCC's model policy.

The next scenario concerns distance education. The instructor would like to upload a slide show to the learning management system that contains some copyrighted images. One third of respondents would upload the slide show, while 28.4% would ask permission from the copyright owners. Nineteen percent would ask for an opinion from someone else, and

14% would not upload the slide show with images. This scenario illustrates another of the new educational exceptions in the Copyright Act, namely to [telecommunicate a lesson to enrolled students](#), such as those in a distance course.

The last scenario concerns a PDF version of a book that is not protected by a digital lock, and whether the instructor who has bought the PDF would upload it or part of it to the learning management system. Not surprisingly, only 2% said that they would upload the whole book. What may be surprising is that only a quarter of them would even upload the most relevant chapter. Rather, 44% would not upload any of it. These responses might have something to do with the fact that the e-book is a personal copy, and not licensed through the library. Perhaps the respondents felt that by purchasing the e-book themselves they were contractually obligated to keep it to themselves. (That might in fact be a term of the purchase contract, but that's an issue for another day.) In many institutional fair dealing policies, including the AUCC's, one chapter of a book is considered an example of a permitted use. In fact, in *CCH Canadian Ltd. v. Law Society of Upper Canada* ([2004] 1 SCR 339, [2004 SCC 13](#)), the Great Library's provided a copy of a monograph chapter to a lawyer, and it was a big chapter, but it was not found to be copyright infringement by the Supreme Court (para. 26).

The survey also included spaces for respondents to make comments on institutional policy, guidance, and copyright in general.

Some of the comments added possibilities that I did not provide in the scenarios, for example, putting a book on reserve, providing a citation for the students to find the resource themselves, removing images from the slide show before posting it, using course packs, and contacting the copyright officer to obtain clearance (in some cases this is required).

There were also many comments about the perceived difficulty in understanding copyright rules, which is expected. Respondents said that the issue is "complex", "messy", with "grey areas", or that it's "confusing" and "the rules seem to change". One said "I just want to know whether I can or cannot do something. And if I can't do it, what are my options." Some are

afraid to use copyrighted content at all, and one respondent said that this was the impression that was given after a copyright education session!

A few comments made reference to “expertise” and the idea that faculty members are not qualified to make copyright decisions, even with respect to their own teaching – for example one respondent wrote that fair dealing is “a question for the experts”, but did not specify who those experts might be, and another asked “As an untrained amateur, how do [we] know that [we] are right in [our] interpretation and application of information?”

Another theme that came up more than once was the issue of expediency and convenience. Seeking copyright permission can be an “onerous process”; they’re looking for “quick answers”

One respondent said that “life was so much easier with Access Copyright”, and it probably was in a sense.

There were many, many other fruitful comments made but unfortunately I can’t go through them in time.

The conclusions that one can come to from this survey are not shocking – they’re probably what you would expect. From the scenario responses and some of the comments, it seems that respondents are more comfortable reproducing and displaying materials that are freely available on the Internet, like YouTube videos and images, but more likely to ask for permission or guidance when it comes to print materials or even electronic versions of print materials like PDFs. So 58% of respondents would go ahead and show a YouTube video in class, while only half of that number would scan and upload a print article without asking for guidance first.

In terms of recommendations, some things do come to mind. It was concerning to see that while nearly all respondents are aware of their institutions copyright policy or guidelines, 41% didn’t know whether copyright training was offered. So maybe it is or maybe it isn’t, but if the intended audience doesn’t know, it might as well not be. So there is a communication issue there.

Now I mentioned that some of the comments had to do with the time-consuming process of getting copyright permission or clearance. If it takes days and weeks to see if you can use the material you might think, forget it. One respondent commented that adjunct faculty are not always on campus so if they're looking for a quick answer from a librarian it's not always easy to obtain. At Western in February, the copyright group launched "[Ask Copyright](#)", which is based on the "Ask a librarian" virtual reference service offered at many libraries, where you can chat in real time with a copyright librarian. Because "Ask Copyright" is so new we can't really tell how it's being received but it's something to consider in terms of speedy answers.

Of course, this study is descriptive and cannot be generalized. The respondents are self-selected, and when it comes to comments, they're double-self-selected, so perhaps the faculty members who are OK with everything did not bother to respond. The options available for the scenario questions were not complete apparently, and I could have added a few more as respondents noted. There are also many other scenarios that I could ask about to increase validity. Further research could include interviews with teaching faculty to get more information about how they perceive copyright and copyright management, and how they use copyrighted materials, and they would have the chance to explain in more detail why they would respond to the scenarios the way they did. A couple of the comments talked about how their answers would depend on other factors that were not outlined in the question. I would also like to know, if they are aware of institutional training in copyright, but have not attended, what their reasons are.

But the survey does provide insight, I hope, into what some faculty members think about copyright and how institutional efforts affect their teaching.