
In the Public Interest provides a useful outline and critique of the issues on the copyright agenda in Canada today. Michael Geist, the book’s editor, is sometimes seen as the “Lessig of the North,” and his perspective on copyright, which highlights and promotes the “public interest,” user rights and the interests of the “broader public” in copyright, is reflected throughout the essays collected here. The book’s tight publication schedule—it was pulled together in less than six months—is the result of Geist’s commitment to seeing interests of “the public” represented as Canada gears up to examine Bill C-60, the current proposed copyright legislation. Despite the short time frame, the works are of top quality. The icing on the cake: all chapters of the book are available online under a Creative Commons licence.

The essays included in the first section, which establishes the context of Bill C-60, are some of the most interesting works in the book. Laura Murray’s chapter, “Copyright Talk: Patterns and Pitfalls in Canadian Policy Discourses,” stands out. Murray focuses on struggles over copyright discourse, arguing that discourse is central to the legal battles over copyright and to Canadians’ everyday experience:

As digital technology puts publication, republication, and dissemination of copyrighted materials in the hands of more and more citizens, many of whom may be inclined to question the legitimacy of copyright law, the struggle over the “spin” of copyright talk intensifies. . . . All parties try to reflect and manipulate citizens’ or legislators’ “common sense.” (p. 16)

Murray discusses several particular discursive battles: the portrayal of the Internet as a bountiful resource versus a lawless space, the vilification of unauthorized use versus the acknowledgment that certain uses do not require authorization, and the entrenchment of ideas of free access versus paid access. Here, Murray critiques the ways that copyright holders have used language in their attempts to lay claim to a broadening set of rights to force users’ rights off the field.

The works in the second section, which deals with Bill C-60, examine the items at the top of Canada’s copyright reform agenda. A full four of the eleven essays in this section focus on the measures in the bill that will make it illegal to circumvent copyright protection technologies for the purpose of infringing copyright. Two are dedicated to the issues of educational institutions and libraries, while the remaining five essays deal with rights management information, the proposed making-available right, Internet Service Provider (ISP) liability, performers’ rights, and photography issues. All of the essays in this section reflect Geist’s preoccupation with users’ interests. Jane Bailey expresses concerns about freedom of expression, arguing that the anti-circumvention measures in the bill could infringe on the right to freedom of expression. Geist himself, in a chapter, advocates for a positive right for users to circumvent copyright protection technologies for lawful purposes. Mary Perry makes several proposals to protect user privacy and promote transparency when works are embedded with digital copyright management information.

Most of the essays in this section include legislative suggestions. All are critical of Bill C-60 except one: Sheryl Hamilton’s overall approving analysis of Bill C-60’s notice-and-notice provisions for ISPs. Hamilton argues that the Canadian approach, coded into Bill C-60, will help to avoid problems experienced in the United States, where ISPs, charged with removing infringing material from the Internet, have been too quick to remove items following mistaken claims of infringement. Under C-60, there is an additional layer of protection: copyright interpretation is left to the courts, and removal would occur only after a court order. Despite her overall recommendation of the system, Hamilton points out that this additional layer of protection does not apply to search engines (pp. 307-308). This is
the sort of important and relevant critique, especially in light of current debates over
Google and Yahoo!’s book search services, that makes In the Public Interest so useful.

The essays in the final section, which deals with issues overlooked or omitted from
Bill C-60, raise some extremely important items. In perhaps the most broad-reaching pro-
posal, Carys Craig suggests a broader legislative framework of users’ rights than the more
restrictive and specific fair dealing exceptions that are currently provided in Canadian leg-
islation. She notes that if, as in the United States, copyright is conceptualized as serving the
public interest, users’ interests are accorded greater space. On the other hand, if, as was the
case in Canada until recent Supreme Court decisions, copyright is primarily understood to
be about protecting authors’ rights, users’ abilities are generally more narrowly restricted.
She suggests that a broader legislative conception of users’ rights in Canadian legislation,
similar to the fair use provisions used in the United States, would complement recent
Supreme Court decisions in Canada that affirmed the importance of balancing users’ rights
with other rights.

As Geist notes, many of the issues raised in this collection will continue to dominate
the copyright agenda for years to come. Although it does not represent all sides of the
debate, this book lends a critical user-centred perspective to a discourse that is often domi-
nated by rights-holder groups. While most of the articles, written by legal scholars, will be
best appreciated by those with a more specialized interest in the area, all are readable, and
several of the articles offer critical and culturally informed perspectives. In offering both
theoretical insights and concrete legislative proposals, this book undoubtedly succeeds in
raising important issues and in contributing to the debate over Bill C-60 and the depth of
debate on Canadian copyright in general.

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