

ACMLA Copyright Committee  
2004-2005

Current members of the ACMLA Copyright Committee are Dan Duda, Elizabeth Hamilton, and Richard Pinnell.

The highlight of 2004-2005 is the introduction in the House of Commons of Bill C-60, An Act to amend the Copyright Act (first reading, 20 June 2005). This copyright reform bill is the first significant parliamentary development since the publication in May 2004 of the Interim Report on Copyright Reform by the Standing Committee on Canadian Heritage, chaired by Sarmite D Bulte. The Interim Report was a statutory review of Bill C-32, the amended Copyright Act, which came into force in 1998. From the perspective of the library community the Interim Report was disappointing in that some of its nine recommendations were felt to be weighted too much in favour of copyright owners and collective societies; for example, the report proposed a new license to cover Internet-based works, a proposal which caused great concern to the educational community.

With the release of Bill C-60, the Council of Ministers of Education, Canada (CMEC) have expressed disappointment with the actions of the federal government in failing to address the educational use of the Internet in its new copyright legislation. “While other countries have copyright laws that support education by protecting student and teacher access to learning resources, Canada has a law that makes routine classroom activities illegal.” (CMEC, 21 June 2005).

So what **does** the Bill C-60 address? Amendments bring the Copyright Act up to the minimum standards in the two WIPO digital treaties: the WIPO Copyright Treaty and the WIPO Performance and Phonograms Treaty. The Bill also addresses Internet Service Provider (ISP) liability, photography issues, and interlibrary lending of copied materials in digital form. On this last point the Bill allows libraries and archives to provide patrons with digital copies of requested works; unfortunately, however, they must limit further communication or copying of the digital files and must ensure that the files will not be used for more than seven days.

Michael Geist, law professor at the University of Ottawa and author of a weekly column on law and technology has this to say about Bill C-60:

*While some of the provisions strike an admirable balance, those that are ostensibly designed to facilitate technology-based education and the digital delivery of library materials fall far short of their goal by hobbling any new rights with suffocating restrictions that render the provisions practically useless.*

(<http://www.michaelgeist.ca/home.php>). He also argues in favour of alternative reforms that would better facilitate access to knowledge and the potential of the Internet. These reforms include the creation of a national digital library, moving towards a fair use model, and providing more active support for the public domain. These are some of the same issues being hotly debated in the US in the context of the hugely ambitious Google Library Project (i.e., Google Print).

Members of the ACMLA Copyright Committee will follow new developments this summer as the bill moves through second and third reading. Others monitoring this legislation include AUCC, CARL, and CLA. Mark Haslett, university librarian at the University of Waterloo, is the new incoming chair of the CARL Copyright Committee and will be providing regular updates to the academic community.

ACMLA members are probably aware that the term of copyright on maps and aerial photographs published in Canada by federal and provincial governments is 50 years after first date of publication. Section 12 of the Copyright Act states that:

*Where any work has been prepared or published by or under the direction or control of Her Majesty or any government department, the copyright in the work shall continue for the remainder of the calendar year of first publication and for a period of 50 additional years.*

This means that government maps and aerial photographs published prior to 1955 are in the public domain and may be freely copied. It is reassuring to learn that Mr Yves Drouin, client services representative, National Air Photo Library in Ottawa has recently confirmed this interpretation, with respect to NAPL aerial photographs, in a communiqué to Lori Sugden on 16 May 2005.

Richard Pinnell  
Chair, ACMLA Copyright Committee  
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