



A brief presented to the Standing Committee on Industry, Science and Technology
by Emily Carr University of Art + Design
as part of the five-year review of the Copyright Act

Introduction

Established in 1925, Emily Carr University of Art + Design is the only specialized, accredited, public, post-secondary university in British Columbia solely devoted to education and research in the creative sector and its associated knowledge economy. We merge research, critical theory and studio practice in an interdisciplinary environment, strengthening our work by the integration of personal and professional practices of our faculty and staff members. Our strategy, facilities, partnerships and resources are intentionally student-centred to foster dialogue, expression and open connections in support of the next generation of creative and cultural leaders.

Emily Carr University has approximately 2100 students and our programs offer undergraduate, graduate degrees, and applied research in the fields of visual arts, media arts, and design, as well as professional certificates, pre-university, and lifelong learning in these areas.

Copyright Education and Compliance

Emily Carr University takes a comprehensive approach to copyright education across campus and is committed to copyright compliance. At the start of each semester new and returning faculty are provided with detailed information on how to legally provide their students with course materials in the form of course packs, within course pages on our learning management system, and in course handouts. We have a detailed guide on our Library website which explains University copyright policies and procedures as it applies to all formats; notices about copyright are posted above scanners and photocopiers across the institution; the copyright officer regularly responds to requests for information around the application of copyright. To further reinforce copyright education the copyright officer is developing an online copyright education module for students and faculty.

Fair Dealing

Recommendation:

- Retain education as one of the permitted fair dealing purposes in the Copyright Act

Emily Carr University is committed to the just application of educational fair dealing in our learning environment. The 2012 amendments to the *Copyright Act* which established educational fair dealing as a statutory exception to copyright and the subsequent judicial decisions provide a framework for the responsible use of copyrighted materials in post-secondary education and recognize that access to a wide variety of materials is essential for knowledge production, critical thinking, and innovation in Canada. All fair dealing exceptions enhance curriculum delivery and peer-to-peer learning and provide a richer student learning experience.

It has been argued that educational fair dealing has resulted in the reduced acquisition of published materials by educational institutions when in many cases, including at Emily Carr, proportions of budgets spent on collections has increased since 2012. At the close of the 2012-13 fiscal year our collections expenditures were close to \$150 000 while in the 2017-18 fiscal year we spent \$232 000 on electronic and print publications and subscriptions, a 55% increase over five years.

It is worth noting that although many of students prefer to view materials electronically, publications which support art and design disciplines and education are not always available in digital formats. “The irregularly published, ephemeral, and unusual formats of print materials—those that make up the bread and butter of good art [library] collections—stand out when compared to other disciplines that have more readily embraced digital publications,”¹ thus Emily Carr University Library consistently collects materials in all formats.

Protecting the Public Domain

Recommendation:

- Retain the current copyright term

The job areas and professional practices that students enter into upon graduation from Emily Carr are rapidly growing, according to the *Statistics Canada Provincial and Territorial Indicators of 2016*: “Culture GDP in Canada totaled \$53.8 billion in 2016.” The report states that the “largest contributors to culture GDP and jobs were the audio-visual and interactive media and the visual and applied arts domains”, all of which are disciplines taught at Emily Carr.² To ensure that current and future culture sector workers are able to build upon the creative and intellectual output of the past we recommend that Canada maintain its copyright term at 50 years after the death of the creator and reverse the 20-year extension ratified in the Canada-United States-Mexico Agreement.

Indigenous Rights and Traditional Knowledge

Recommendations:

- Acknowledge the rights of Indigenous peoples over their traditional knowledge and cultural expressions
- Work with Indigenous peoples to protect and maintain their rights

Emily Carr University affirms the rights of Indigenous peoples over their traditional knowledge and endorses Article 31 of the *UN Declaration of the Rights of Indigenous Peoples*:

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.³

¹ D. Vanessa Kam, “The Tenacious Book, Part 1: The Curious State of Art and Architecture Library Collections in a Digital Era.” *Art Documentation*, Vol. 33 (Spring 2014). 6. <https://www.journals.uchicago.edu/doi/pdfplus/10.1086/675702>

² <https://www150.statcan.gc.ca/n1/daily-quotidien/180227/dq180227a-eng.htm>

³ https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

We support the work of the First National Information Governance Centre whose OCAP™ principles (Ownership, Control, Access and Possession) ensure that research and study with Indigenous information and communities is principled and information governance respects First Nations communities and rights.⁴

We endorse the recommendations by the Canadian Federation of Library Associations (CFLA-FLAB) that the Government of Canada “work with Indigenous peoples in Canada to explore mechanisms to protect Indigenous knowledge from unauthorized use through copyright legislation and ensure that indigenous concepts of ownership are respected.”⁵

Through the decolonization and indigenization process at Emily Carr we have begun to explore the intricacies of Indigenous and traditional knowledge through workshops, guest speakers, and course discussions. We recognize that Indigenous and traditional knowledge is collectively owned and authored by Indigenous communities and that the existence of this knowledge over thousands of years should not automatically enter it into the public domain.

Supporting Students

Recommendations:

- Do not implement a mandatory tariff regime
- Do not introduce statutory damages for copyright infringement
- Clarify that a contract cannot override a user's rights to fair dealing

In supporting a balanced copyright regime that takes into account the rights of users alongside the rights of creators, Emily Carr University is ensuring that students do not leave our institution with intellectual or financial debt. The potentially prohibitive increase in costs associated with mandatory tariffs and the limitations that licensing contracts place on users rights contribute to less affordable education for students.⁶ Limiting access to a broad range of content thwarts creative learning and critical thinking pathways and disadvantages students entering the job market.

Supporting Creators

As a university devoted to knowledge and education in the creative sector, we endorse the November 22, 2018 testimony by Universities Canada in which it advocates for an increase in “federal funding for programs and organizations that provide direct support to creators” and “expanded federal investments in work-integrated learning and entrepreneurship programs.”⁷ In addition to providing a broad and balanced selection of education materials, we believe that direct support for creators is the best way to support our graduates as they leave the institution and transition into the creative industries.

⁴ <https://fnigc.ca/training/fundamentals-ocap.html>

⁵ http://cfla-fcab.ca/wp-content/uploads/2018/05/CFLA-FCAB_Indigenous_knowledge_statement.pdf

⁶ The submission by the Undergraduates of Canadian Research-Intensive Universities notes that affordability is a key issue for students: <https://www.ourcommons.ca/Content/Committee/421/INDU/Brief/BR10008895/br-external/UndergraduatesOfCanadianResearchIntensiveUniversities-e.pdf>

⁷ Wendy Therrien, “Digital disruption: the importance of balancing copyright interests.” Universities Canada presentation before the Standing Committee on Canadian Heritage, November 22, 2018.