

Fair dealing works

Universities have a unique understanding of copyright. They're home to copyright owners, creators, buyers, sellers and users. University academics and researchers are the creators of most of the content used on campus by students. Universities understand both sides of copyright: users and creators. That's why they are seeking a balanced approach to copyright. And fair dealing is an important way of maintaining this balance.

Universities take copyright laws seriously. They follow fair dealing policies, invest in on-campus copyright offices and employ staff to educate the campus community about and promote compliance with copyright laws.

Universities are spending more than they ever have before purchasing library content – over a billion dollars in the last three years combined, according to Statistics Canada – and it's increasing annually.

The right to fair dealing

Fair dealing is an important feature of copyright law and a *right* all Canadians have. Fair dealing allows you to share small portions of larger works, under certain circumstances, without contacting copyright owners and negotiating payment.

Fair dealing has always been part of Canadian copyright law. In 2012, fair dealing for education was added to the other kinds of fair dealing to clarify that, as the Supreme Court said, teachers and professors could share short excerpts with their students.

To support accessibility and innovation in teaching and learning for all Canadians, the 2018 Parliamentary review of the Copyright Act should maintain fair dealing for education.



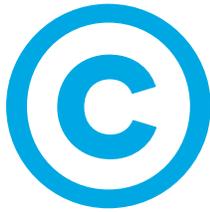
“

The more access students have, to the widest breadth of ideas and information possible, the better equipped they are to cultivate subject matter expertise [...] and engage with fundamental debates.

”

– Michael McDonald,
Canadian Alliance of
Student Associations





Case law supports fair dealing for education

Canadian courts have affirmed educators' use of fair dealing. Landmark Supreme Court of Canada decisions have:

- ♦ recognized fair dealing as essential for “the long-term interests of society” and as a “right” – a term with important legal significance;
- ♦ created a legal method to determine when/how to use fair dealing; and
- ♦ ruled in five combined decisions that fair dealing was much broader than how the education sector had been using it up to that point, before Parliament added “education” to the Act.

Education sector's interpretation of fair dealing is evidence-based

In 2012, the college, university and K-12 sectors issued guidelines to help educators and students apply fair dealing. This shared interpretation of fair dealing (i.e. at most 10 per cent of a work is eligible for fair dealing) has been supported by the Copyright Board of Canada and the Federal Court of Appeal. The 10 per cent interpretation is consistent with international standards and interpretations of equivalent laws in other countries (including the United States).

Universities support creative industries

Some creator groups are concerned about the impact of fair dealing on creators. Universities teach arts and culture, the fine and performing arts, design, journalism and communications, and more. Graduates go on to be professional creators, cultural-entrepreneurs and audience members. Universities proudly contribute to Canada's cultural sector and recognise the importance of government support for the arts both on and off campus.

It is true that parts of our cultural industries are struggling to adapt to the digital disruption affecting Canadian society. But changing fair dealing is not the answer to the challenges facing creators during this period of transition. Changing fair dealing would have a direct impact on the affordability of education for students and the diversity of teaching materials at all levels.



**Maintaining
balance is in
the interest of
all Canadians.**

For more information: communications@univcan.ca

 @univcan | #fairdealingworks | #faircopyright | univcan.ca/copyright | April 2018



**Universities
Canada.**