

Standing Committee on Canadian Heritage
Study on Remuneration Models for Artists and Creative Industries

Submission by
Professor Michael Geist
Canada Research Chair in Internet and E-commerce Law
University of Ottawa, Faculty of Law
Centre for Law, Technology and Society

December 14, 2018

Overview

1. I am a law professor at the University of Ottawa where I hold the Canada Research Chair in Internet and E-commerce Law and serve as a member of the Centre for Law, Technology and Society. I focus on the intersection between law and technology with an emphasis on digital policies. I submit these comments in a personal capacity representing only my own views.
2. I have been closely following the committee's work and was pleased to present on November 27, 2018. This written submission expands on that presentation by focusing first on the state of piracy in Canada, followed by an examination of three sectors: (i) educational copying; (ii) the music industry and the value gap; and (iii) film and television production in Canada. The submission concludes with several recommendations for action.
3. In an appendix to this submission, I list many postings and articles I have written relevant to the study.

The State of Piracy in Canada

4. The most recent Canadian government backed report on piracy is the Circum Network study from 2016.¹ The report contained few recommendations and did not find much enthusiasm among Canadian stakeholders for investing in anti-piracy activities. The report states that "Canadian representatives of rights holders consulted as part of this study tended not to give online piracy fighting a high priority. While they condemn unauthorized access to intellectual property and while some rights holders indicated actively reacting, they generally considered that their scarce resources are better invested in other battles and counted on global organizations to pursue the fight." In fact, there was even disagreement among those rights holders that supported government action. While some wanted law enforcement to escalate the piracy issue, others preferred to focus primarily on education efforts.
5. Those views are echoed in other reports. For example, a 2017 report from the Canada Media Fund noted that "some industry watchers have gone so far as to suggest that piracy has been 'made pointless' given the possibility of unlimited viewing in exchange for a single monthly price", a reference to the commercial success of services such as Netflix and other online video streaming services that now generate more than \$1 billion per year in Canada in revenue.²

¹ Canada, Canadian Heritage, *Examination of the "Follow-the-Money" Approach to Copyright Piracy Reduction*, by Circum Network Inc. (Ottawa: Canadian Heritage, 2016), online: <cdn.michaelgeist.ca/wp-content/uploads/2016/08/circumftmreport.pdf>.

² Canada Media Fund, "Adjust Your Thinking – The New Realities of Competing in the Global Media Market", by Leora Kornfield for *CMF Trends* (Ottawa: CMF, 30 November 2017) at 8, online: <trends.cmf-fmc.ca/media/uploads/reports/Adjust_Your_Thinking_-_The_New_Realities_of_Competing_in_a_Global_Media_market_-_CFM_Trends.pdf>.

6. In addition to the commercial success in Canada that refute claims that it is near-impossible to establish successful business models, the data consistently shows that Canada is not a global leader when it comes to piracy. For example, Music Canada recently reported that Canada is well below global averages in downloading music from unauthorized sites (33 per cent in Canada vs. 40 per cent globally) or stream ripping from sites such as YouTube (27 per cent in Canada vs. 35 per cent globally).³
7. The lower Canadian piracy rates are also reflected in data from CEG-TEK, one of the most prolific anti-piracy companies and users of the notice-and-notice system, which reported in 2015 that there were “massive changes” in the Canadian market after the new copyright legal rules were established.⁴ In fact, the biggest decrease in piracy occurred on Bell’s network:
 - Bell Canada – 69.6% decrease
 - Telus Communications – 54.0% decrease
 - Shaw Communications – 52.1% decrease
 - TekSavvy Solutions – 38.3% decrease
 - Rogers Cable – 14.9% decrease
8. Similarly, the Business Software Alliance reports that Canada is at its lowest software piracy rate ever, well below global and European averages.⁵
9. None of this data is meant to justify infringing activity. However, claims that Canada is a piracy haven are not supported by the data. If anything, the data supports the view that Canadians are rapidly shifting away from unauthorized sites toward legal alternatives as better, more convenient choices come into the market.
10. Indeed, the data confirms Canadians’ willingness to pay for well-priced, convenient services, which has presumably prompted CBS to expand its streaming service to Canada, following on Amazon’s recent streaming video entry.⁶ Record earnings, a top tier global ranking for subscribers, and new market entrants are the sign of a thriving market, not one struggling to survive due to piracy.

Educational Copying

11. Notwithstanding the oft-heard claim that the 2012 reforms are to “blame” for current educational copying practices, the reality is the current situation has little to do with the

³ Music Canada, “The Value Gap: Its Origins, Impacts and a Made-in-Canada Approach”, (Toronto: Music Canada) at 23, online: <musiccanada.com/resources/research/the-value-gap-report/>.

⁴ “Six Strikes And You’re (Not Even Close To) Out; Internet Security Task Force Calls for End of Copyright Alert System” *PR Newswire* (12 May 2015), online: <www.prnewswire.com>.

⁵ Business Software Alliance (BSA), “Seizing Opportunity through License Compliance: BSA Global Software Survey” (May 2016), online: <globalstudy.bsa.org/2016/downloads/studies/BSA_GSS_US.pdf>.

⁶ Pete Evans, “CBS to launch streaming service internationally, starting in Canada next year”, *CBC News* (8 August 2017), online: <<http://www.cbc.ca/news/business/cbs-all-access-streaming-canada-1.4238595>>; Raju Mudhar, “Amazon launches Prime Video in Canada”, *The Toronto Star* (14 December 2016), online: <https://www.thestar.com/business/tech_news/2016/12/14/amazon-prime-video-now-available-in-canada.html>.

inclusion of “education” as a fair dealing purpose. Access Copyright was asked in 2016 by the Copyright Board to describe the impact of the legal change. It told the Board that the legal reform did not change the effect of the law:

“The coming into force of the statutory amendment in November 2012 did not serve to further expand fair dealing because the Supreme Court of Canada had already interpreted the exception as including that purpose.”

12. Given Access Copyright’s position before the Copyright Board, the claims that current fair dealing practices are the result of the 2012 reforms are misleading.
13. Further, the claim of 600 million uncompensated copies – which lies at the heart of the allegations of unfair copying – is the result of outdated guesswork using decades-old data and deeply suspect assumptions. The majority of the 600 million – 380 million – involve K-12 copying data that goes back to 2005. The Copyright Board warned years ago that the survey data is so old that it may not be representative. The remaining 220 million comes from a York University study, much of which is as old as the K-12 data. Regardless of its age, however, extrapolating some old copying data from a single university to the entire country does not provide a credible estimate
14. In fact, the Industry committee has received copious data on the state of educational copying. It is unequivocal: printed coursepacks have largely disappeared in favour of digital access. As universities and colleges shift to digital course management systems (CMS), the content used changes too. For example, an Access Copyright study at Canadian colleges found that books comprised only 35% of materials. The majority was journals and newspapers, much of which is available under open access licenses or licensed by other means.
15. The amount of copying with CMS is far lower than with print. While Access Copyright argues there should be a one-to-one ratio – for every registered student the assumption should be every page is accessed even for optional readings – data tells us this is unlikely.
16. Most importantly, CMS allows for the incorporation of licensed e-books and other materials. At the University of Ottawa, there are now 1.4 million licensed e-books, many of which involve perpetual licences that require no further payment and can be used for course instruction.
17. Further, governments have invested tens of millions in open educational resources. The BC government became the first Canadian province to launch an open textbook initiative in 2012, committing to 40 new online, open textbooks for 40 popular post-secondary courses. The initiative has since grown and been emulated in other provinces. For example, the Ontario government launched a new Open Textbook Library for Ontario in 2016 that will feature hundreds of openly licensed, professionally created textbooks providing students with access to free digital texts in dozens of university and college courses.

18. Educational institutions spend millions annually on transactional, pay-per-use licences, even where those schools have a collective licence. Indeed, the Industry committee has heard convincing evidence that expenditures by Canadian education on transactional licences collectively run into the millions of dollars each year. For example:
- the University of Toronto said it paid more than \$285,000 on transactional licences in the last academic year
 - Ryerson University said it spends more than \$150,000 on transactional licences annually
 - the University of Guelph spent \$100,000 on transactional licences in 2017-18. Transactional licences are responsible for 6 per cent of course materials at the university. Site licensing covers 54 per cent of the content, free and open Internet content constitutes 24 per cent, and fair dealing 16 per cent.
 - Concordia University, which pays the Copibec collective licence, still spends an additional \$120,000 in transactional licensing costs
 - the University of Calgary spent \$96,149 on transactional licences, of which \$45,123 went toward materials in printed coursepacks and \$51,026 for materials posted to a CMS.
 - UBC spent \$113,409 on transactional licences for access and use of 780 items
19. The significant expenditures on transactional licences is notable for several reasons. First, they provide compelling evidence that claims educational institutions treat fair dealing as free dealing is simply false. Second, additional transactional licences may be needed even where a collective licence is operational. Third, transactional licences are more effective than collective licences in directly compensating creators and publishers for the use of their work. Fourth, Access Copyright has astonishingly opposed transactional licences for years, arguing that only its licence is an effective means of compensation.
20. What this means is that the shift away from the Access Copyright licence is not grounded in fair dealing. Rather, it reflects the adoption of licenses that provide both access and reproduction. These licences provide universities with access to the content and the ability to use it in their courses. The Access Copyright licence offers far less, granting only copying rights for materials that have already been acquired.
21. Therefore, efforts to force the Access Copyright licence on educational institutions by restricting fair dealing or by implementing statutory damages reforms should be rejected. The prospect of restricting fair dealing would represent an anti-innovation, anti-education step backward that would harm authors seeking innovative ways to licence their works. While Canada's trading partners are debating how to support innovation and education through expanding the purposes of fair dealing or adopting fair use, Access Copyright's proposal would create one of the most restrictive systems in the world.
22. With respect to statutory damages, supporters argue that the massive escalation in potential damage awards is needed for deterrence and to promote settlement negotiations. Yet there is nothing to deter: educational institutions are investing in licensing in record amounts. Promoting settlement negotiations amounts to little more than increasing the legal risk to students and educational institutions so that they have no other viable

alternative than to pay for an unnecessary licence.

23. In fact, the reason for different statutory approaches in the Copyright Act is based on including them for mandatory tariffs as a quid pro quo that requires rights holders such as SOCAN to file tariffs as a competitive safeguard. Tariffs such as those involving Access Copyright involve an optional process. This leaves it to rights holders to determine if they want to privately negotiate their rates or have the board establish a rate for the market. Since the process is optional, there are no statutory damages multipliers in effect.

Value Gap and Remuneration for the Music Industry

24. The music industry in Canada, led by the massive growth of authorized music streaming services, has enjoyed a remarkable string of successes since the last time copyright law was overhauled in 2012. The Canadian music market is growing much faster than the world average, with Canada now the seventh largest music market in the world. Music collective SOCAN, a coalition member, has seen Internet streaming revenues balloon from \$3.4 million in 2013 to a record-setting \$49.3 million in 2017.
25. Moreover, data confirms that music piracy has diminished dramatically in Canada. Music Canada reports that Canada is below global averages for “stream ripping”, the process of downloading streamed versions of songs from services such as YouTube. Sandvine has reported that file sharing technology BitTorrent is responsible for only 1.6 per cent of Canadian Internet traffic, down from as much as 15 per cent in 2014.
26. Two issues are therefore not in dispute: the music industry is garnering record revenues from Internet streaming and subscription streaming services pay more to creators for streaming than ad-based ones.
27. The question for a policy review considering copyright is whether Canadian copyright law has anything to do with this. The answer is no. The notion of a value-gap is premised on some platforms or services taking advantage of the law to negotiate lower rates. Those rules – such as notice-and-takedown – do not exist under Canadian law.
28. The industry tells a story of unfulfilled promises to artists from the 1990s that the digital environment – supported by legal rules creating statutory safe harbours for intermediaries – would lead to economic success for the creative class. The problem with the story is that it re-writes legislative history. In the U.S., the pressure for copyright reform in the 1990s that led to the Digital Millennium Copyright Act came from the music and movie industries, not the intermediaries (there was no Google or Facebook at the time). The resulting DMCA codified digital lock rules (anti-circumvention legislation) that U.S. officials acknowledged went far beyond those required in the WIPO Internet Treaties. It was the music and movie industries who claimed the legislation featuring legal protection for digital locks would support creators in the digital environment.
29. The inclusion of safe harbours within the legislation was a compromise that granted rights holders unprecedented power to encourage the removal of alleged infringing

content without court oversight. At the heart of the U.S. notice-and-takedown system is the ability for rights holder to effectively require the removal of content based only unproven allegations of infringement. There is no court review or other independent analysis. The system grants intermediaries protection for liability if the content is removed, a legal condition that encourages taking down content without an independent review. As a result, there have been cases of misuse of the takedown system, including recent revelations that nearly all takedown requests for Google search results involve non-existent URLs.

30. The notice-and-takedown system was never implemented in Canada. The DMCA-style issues, including digital lock rules and intermediary liability, were only addressed in legislation in 2012. To this day, there is still no formal notice-and-takedown system in Canada. The Supreme Court of Canada ruled on ISP liability in 2004 in *SOCAN v. CAIP*, but that decision was not based on digital copyright reforms. The 2012 reforms include some safe harbours, but not before the industry and artists received the right to forward an unlimited number of notices to Internet users at no cost through the notice-and-notice rules, a new enabler provision to make it easier to target piracy websites, and the restrictive digital lock rules. In other words, there is no notice-and-takedown system to amend in Canada and calls to end safe harbours for technology companies bears little resemblance to Canadian law.

31. That helps explain why industry demands to this committee instead focus on alternate reforms such as new taxes on iPhones. I believe those demands should be rejected. The industry argues in its brief to this committee:

The private copying levy, originally intended to be technologically neutral, has been limited by various decisions to media that are effectively obsolete. This important source of earned income for over 100,000 music creators is now in jeopardy unless the regime is updated. Music creators are asking for the creation of an interim four-year fund of \$40 million per year. This will ensure that music creators continue to receive fair compensation for private copies made until a more permanent, long-term solution can be enacted.

32. This represents a brazen request for an annual \$40 million handout for no reason other than the industry wants it. Indeed, as the industry predicted, the consumer shift to subscription services such as Spotify means there is a less and less private copying taking place. Music Canada was once the lead proponent of the private copying levy, but it dropped its support on the expansion of the levy to iPods in 2007, fearing it “broadens the scope of the private copying exception to avoid making illegal file sharers liable for infringement.” The industry was similarly reluctant to embrace private copying in 2010.

33. Last year a hefty 28% of Canadian Private Copying Collective (CPCC) revenues went toward administration, meaning that more than \$11 million would go toward administrative costs, not musicians.

34. Moreover, the CPCC's distribution framework allocates 18% of the remaining revenues to record companies, not authors, publishers or performers. That means millions to record labels, not musicians. In fact, the percentage allocated to record companies has grown significantly: it was 11.3% in 2000, 15.1% from 2001-2007, and now stands 18%. The annual \$40 million handout request – \$160 million over four years – has nothing to do with business models or the state of industry, which has been growing dramatically in recent years.

Film and Television Production in Canada

35. According to the latest data from the Canadian Media Producers Association, the total value of the Canadian film and television production sector exceeded \$8 billion last year, over a billion more than has been recorded in any year over the past decade.⁷ In fact, last year everything increased: Canadian television, Canadian feature film, foreign location and service production, and broadcaster in-house production.
36. Spending on Canadian content production hit an all-time high last year at \$3.3 billion, rising by 16.1%. Notably, the increased expenditures do not come from broadcasters. In fact, the private broadcasters now contribute only 11% of the total financing for English-language television production. Their contribution is nearly half of what it was just three years ago (now standing at \$236 million) in an industry that is growing. Yet despite the private broadcaster decline, money is pouring into the sector from distributors (who see benefits of global markets) and foreign financing (which has grown by almost \$200 million in the past four years) leading the way. The sector remains heavily supported by the public, with federal and provincial tax credits now accounting for almost 30% of financing.
37. The increase in foreign investment in production in Canada is staggering. When Netflix began investing in original content in 2013, the total foreign investment (including foreign location and service production, Canadian theatrical, and Canadian television) was \$2.2 billion. That number has more than doubled in the last five years, now standing at nearly \$4.7 billion. While much of that stems from foreign location and service production that supports thousands of jobs, foreign investment in Canadian television production has also almost doubled in the last five years.
38. The increasing irrelevance of private broadcasters for financing Canadian television production is particularly pronounced in the fiction genre (ie. drama and comedy shows). This is easily the most important genre from an economic perspective, with \$1.29 billion spent last year. Private broadcasters only contributed \$59 million or five percent of the total. By comparison, foreign financing was \$285 million. In sum, the data confirms that there has never been more money invested in film and television production in Canada.
39. Online video services are experiencing rapidly expanding revenues, now generating more than \$1 billion per year. In fact, two Canadian online video services – CraveTV and Club

⁷ “Economic Report on the Screen-Based Media Production Industry in Canada”, (Ottawa: Canadian Media Producers Association, 2017), online: <www.primetimeinottawa.ca/wp-content/uploads/2018/02/Profile-2017.pdf>.

illico – are estimated to have earned \$373 million last year, up from just \$13 million four years earlier.

40. Despite the success for the industry and artists, this committee has heard from several witnesses who have called for the inclusion of an explicit site blocking provision in the Copyright Act. I believe this would be a mistake. First, the CRTC proceeding into site blocking earlier this year led to thousands of submissions that identified serious concerns with the practice.

41. For example, the United Nations Special Rapporteur for Freedom of Expression raised concerns regarding the implications for freedom of expression, noting:

“While the enforcement of copyright law may be a legitimate aim, I am concerned that website/application blocking is almost always a disproportionate means of achieving this aim. Blocking an entire website/application will not only restrict allegedly infringing activity, but also cut off access to all legitimate content on that website or uses of that application.”

42. Technical groups cited problems of overblocking. One of the best-known cases of overblocking arose in Canada in 2005, when Telus unilaterally blocked access to a pro-union website without a court order during a labour dispute. In doing so, it simultaneously blocked access to an additional 766 websites hosted on the same computer server. The real danger is that this is not ancient history. For example, in 2013, UK ISPs blocked access to around 200 legitimate websites including Radio Times. The blocking occurred as a result of a court order targeting two file sharing websites. In fact, OFCOM, the UK regulator, anticipated the over-blocking issue in 2010 study that noted:

“We believe that IP address based site blocking is not granular and is likely to lead to over-blocking. This may undermine the confidence in any site-blocking scheme, and create significant liability risks for service providers. The over blocking property is a by-product of sites sharing IP addresses.”

43. Moreover, given that the starting principle for net neutrality is the right for users to access content and applications of their choice, blocking content is prima facie a net neutrality violation.

44. Second, even if there is support for site blocking, it already exists under the law as the Supreme Court’s *Google v. Equustek* decision demonstrates. Before expanding such a provision, rights holders should first be required to tender evidence that they have attempted to use the existing law.

Recommendations for Action

45. Recent Canadian copyright developments have addressed many of the key concerns from the creative industries and artists. For example, the extensive Copyright Board of Canada

reforms contained in Bill C-86 comprehensively address longstanding concerns with the administration of copyright. The bill received royal assent on December 13, 2018.

46. Moreover, the copyright provisions in the Canada-US-Mexico Agreement significantly alter the copyright balance by extending the term of copyright by additional 20 years beyond our current law and the international standard found in the Berne Convention. By doing so, there is a need to recalibrate Canadian copyright law to restore the balance.
47. There are additional reforms that would benefit the creative sector. The government should work with Canadian publishers to ensure their works are available for digital licensing either in bundles or through transactional licenses. Given that digital licenses are sometimes the only source of revenue – Access Copyright’s Payback does not compensate for older works and print sales of old books is typically non-existent – embracing the digital opportunities with a forward looking approach may be the only revenue source for some authors.
48. Governments should continue to pursue alternative publishing approaches that improve both access and compensation. For example, the government’s recent announcement of funding for creative commons licensed local news should be emulated with funding for open educational resources that pays creators up front and gives education flexibility in usage. This would be consistent with a study commissioned for the Association of Canadian Publishers, which found:

“The OER movement continues to grow and is becoming a cornerstone of the Canadian K–12 educational system. The proliferation of OER content is evident across the country and there are numerous initiatives that support the development, access, and distribution of content.”
49. Further transparency in creator remuneration is also needed. This would include greater transparency for payments from Internet platforms and streaming services as well as from payments and the administration of copyright collectives.
50. The committee should also recommend greater support for artists in addressing the contractual imbalances between creators and publishers or record labels. For example, Bryan Adams’ recommendation on reversion rights should be adopted to address one-sided creator-music label contracts. Further, a closer consideration of author royalties from publishers arising from new digital licences is needed.
51. Non-copyright policies should also be examined. For example, Canadian content rules for film and television production currently treat Canadian book authors as irrelevant for Cancon qualification. Reforms to the criteria of qualification for Canadian content are long overdue to ensure that the benefits designed to support Cancon creation accrue to all Canadian creators.

Appendix – Selection of My Posts and Articles on Copyright Review Issues Identified in this Brief

The State of Piracy in Canada

Canadian Piracy Rates Plummet as Industry Points to Effectiveness of Copyright Notice-and-Notice System <http://www.michaelgeist.ca/2015/05/canadian-piracy-rates-plummet-as-industry-points-to-effectiveness-of-copyright-notice-and-notice-system/>

Government-Backed Study Finds Piracy Fight a Low Priority for Canadian Rights Holders <http://www.michaelgeist.ca/2016/08/government-backed-study-finds-piracy-fight-a-low-priority-for-canadian-rights-holders/>

Fake Data on Fakes: Digging Into Bell’s Dubious Canadian Piracy Claims <http://www.michaelgeist.ca/2017/10/fake-data-fakes-digging-bells-dubious-canadian-piracy-claims/>

The Case Against the Bell Coalition’s Website Blocking Plan, Part 2: Weak Evidence on the State of Canadian Piracy <http://www.michaelgeist.ca/2018/02/case-bell-coalitions-website-blocking-plan-part-2-weak-evidence-state-canadian-piracy/>

The Case Against the Bell Coalition’s Website Blocking Plan, Part 3: Piracy Having Little Impact on Thriving Digital Services and TV Production <http://www.michaelgeist.ca/2018/02/case-bell-coalitions-website-blocking-plan-part-3-piracy-little-impact-thriving-digital-services-tv-production/>

Springer Nature Opens Up on Educational Publishing: “E-Piracy” Sites Do Not Replace Traditional Subscription Services, Business Risks Primarily Stem from Marketplace Changes <http://www.michaelgeist.ca/2018/05/springernatureipo/>

Why Canada is Now Home to Some of the Toughest Anti-Piracy Rules in the World...And What Should Come Next <http://www.michaelgeist.ca/2017/03/why-canada-is-now-home-to-some-of-the-toughest-anti-piracy-rules-in-the-world-and-what-should-come-next/>

Canadian DMCA in Action: Court Awards Massive Damages in First Major Anti-Circumvention Copyright Ruling <http://www.michaelgeist.ca/2017/03/canadian-dmca-in-action-court-issues-massive-damage-award-in-first-major-anti-circumvention-copyright-ruling/>

Canadian-backed report says music, movie, and software piracy is a market failure, not a legal one https://www.thestar.com/business/2011/03/18/geist_canadianbacked_report_says_music_movie_and_software_piracy_is_a_market_failure_not_a_legal_one.html

Educational Copying and Fair Dealing

Canadian Copyright, Fair Dealing and Education, Part One: Making Sense of the Spending, <http://www.michaelgeist.ca/2018/05/copyrightfairdealingeducationpartone/>

Canadian Copyright, Fair Dealing and Education, Part Two: The Declining Value of the Access Copyright Licence <http://www.michaelgeist.ca/2018/05/canadian-copyright-fair-dealing-and-education-part-two-the-declining-value-of-the-access-copyright-licence/>

Canadian Copyright, Fair Dealing and Education, Part Three: Exploring the Impact of Site Licensing at Canadian Universities <http://www.michaelgeist.ca/2018/05/copyrightfairdealingeducationpartthree/>

Canadian Copyright, Fair Dealing and Education, Part Four: Fixing Fair Dealing for the Digital Age <http://www.michaelgeist.ca/2018/05/canadian-copyright-fair-dealing-and-education-part-four-fixing-fair-dealing-for-the-digital-age/>

Misleading on Fair Dealing, Part 1: Access Copyright's Inconsistent Claims on the Legal Effect of the 2012 Fair Dealing Reforms <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-1/>

Misleading on Fair Dealing, Part 2: Why Access Copyright's Claim of 600 Million Uncompensated Copies Doesn't Add Up <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-2-why-access-copyrights-claim-of-600-million-uncompensated-copies-doesnt-add-up/>

Misleading on Fair Dealing, Part 3: Data Shows Books Are Rapidly Declining as Part of Coursepack Materials <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-3/>

Misleading on Fair Dealing, Part 4: The Shift from Coursepacks to Digital Course Management Systems <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-4/>

Misleading on Fair Dealing, Part 5: The Multi-Million Dollar Educational Investment in E-Book Licensing <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-5-the-multi-million-dollar-educational-investment-in-e-book-licensing/>

Misleading on Fair Dealing, Part 6: Why Site Licences Offer Education More than the Access Copyright Licence <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-6/>

Misleading on Fair Dealing, Part 7: My Appearance Before the Standing Committee on Canadian Heritage <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-7/>

Misleading on Fair Dealing, Part 8: The Access Copyright Fight Against Transactional Licensing <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-8-the-access-copyright-fight-against-transactional-licensing/>

Misleading on Fair Dealing, Part 9: The Remarkable Growth of Free and Open Materials <http://www.michaelgeist.ca/2018/11/misleading-on-fair-dealing-part-9/>

Misleading on Fair Dealing, Part 10: Rejecting Access Copyright's Demand to Force Its Licence on Canadian Education <http://www.michaelgeist.ca/2018/12/misleading-on-fair-dealing-part-10/>

Fair Dealing and the Right to Read: The Case of Blacklock's Reporter v. Canada (Attorney General) <http://www.michaelgeist.ca/2018/03/fair-dealing-right-read-case-blacklocks-reporter-v-canada-attorney-general/>

Fair Dealing Support for News Reporting and Public Debate: The Case of Warman and National Post v. Fournier <http://www.michaelgeist.ca/2018/03/fair-dealing-support-news-reporting-public-debate-case-warman-national-post-v-fournier/>

Why Fair Dealing Safeguards Freedom of Expression: The Case of the Vancouver Aquarium <http://www.michaelgeist.ca/2018/02/fair-dealing-safeguards-freedom-expression-case-vancouver-aquarium/>

Why Fair Dealing Benefits Creators: The Case of a Room Full of Spoons <http://www.michaelgeist.ca/2018/02/why-fair-dealing-benefits-creator-the-case-of-a-room-full-of-spoons/>

Access Copyright Calls for Massive Expansion of Damage Awards of Up To Ten Times Royalties <http://www.michaelgeist.ca/2017/10/access-copyright-calls-massive-expansion-damage-awards-ten-times-royalties/>

Value Gap and the Music Industry

Music Industry's Canadian Copyright Reform Goal: "End Tech Companies' Safe Harbours" <http://www.michaelgeist.ca/2017/05/music-industrys-canadian-copyright-reform-goal-end-tech-companies-safe-harbours/>

Who Needs an iPhone Tax: Canadian Music Industry Instead Calls for \$40 Million Annual Handout <http://www.michaelgeist.ca/2018/05/who-needs-an-iphone-tax-canadian-music-industry-instead-calls-for-40-million-handout/>

Music Canada Data Confirms Huge Increase in Streaming Revenues and Sharp Decline of Music Listening from Pirated Sources <http://www.michaelgeist.ca/2017/11/music-canada-data/>

SOCAN Financial Data Highlights How Internet Music Streaming is Paying Off for Creators <http://www.michaelgeist.ca/2017/11/socandata/>

Broken Record: Why the Music Industry's Secret Plan for iPhone Taxes, Internet Tracking and Content Blocking is Off-Key <http://www.michaelgeist.ca/2018/04/broken-record-why-the-music-industrys-secret-plan-for-iphone-taxes-internet-tracking-and-content-blocking-is-off-key/>

Canadian Music Industry Seeks New Fees, Content Blocking, and Right to Renegotiate Deals Despite Generating Record Digital Revenues <http://www.michaelgeist.ca/2018/04/canadian-music-industry-seeks-new-fees-content-blocking-and-right-to-renegotiate-deals-despite-generating-record-digital-revenues/>

Canada's Tough Anti-Piracy Copyright Law: Federal Court Awards Millions in Damages Against Unauthorized Streaming Site <http://www.michaelgeist.ca/2018/04/ellasinjunction/>

Film and Television Production in Canada

No Panic: Canadian TV and Film Production Posts Biggest Year Ever Raising Doubts About the Need for Site Blocking and Netflix Regulation <http://www.michaelgeist.ca/2018/02/no-panic->

[canadian-tv-film-production-posts-biggest-year-ever-raising-doubts-need-site-blocking-netflix-regulation/](#)

The Netflix Effect?: Foreign Sources Outspend Canadian Broadcasters and Distributors for English TV Production <http://www.michaelgeist.ca/2017/03/netflix-effect-foreign-sources-outspend-canadian-broadcasters-distributors-english-language-tv-production-funding/>

The Case Against the Bell Coalition’s Website Blocking Plan, Part 1: Canada’s Current Copyright Law Provides Effective Anti-Piracy Tools <http://www.michaelgeist.ca/2018/02/case-bell-coalitions-website-blocking-plan-part-1-canadas-current-copyright-law-provides-effective-anti-piracy-tools/>

The Case Against the Bell Coalition’s Website Blocking Plan, The Finale
<http://www.michaelgeist.ca/2018/03/caseagainstsiteblockingfinale/>

UN Special Rapporteur for Freedom of Expression: Website Blocking Plan “Raises Serious Inconsistencies” With Canada’s Human Rights Obligations
<http://www.michaelgeist.ca/2018/03/un-special-rapporteur-for-freedom-of-expression-bell-coalition-website-blocking-plan-raises-serious-inconsistencies-with-canadas-human-rights-obligations/>

Coalition Featuring Google, Amazon, GoDaddy and CogecoPeer1 Warn Against Canadian Site Blocking Plan: Lost Jobs, Stifled Innovation <http://www.michaelgeist.ca/2018/03/coalition-featuring-google-amazon-godaddy-and-cogecopeer1-warn-against-canadian-site-blocking-plan-lost-jobs-stifled-innovation/>

No Need for New Internet Injunctions: Why Canadian Copyright Law Already Provides Rights Holders with the Legal Tools They Need <http://www.michaelgeist.ca/2018/11/no-need-for-new-internet-injunctions-why-canadian-copyright-law-already-provides-rights-holders-with-the-legal-tools-they-need/>

Global Internet Takedown Orders Come to Canada: Supreme Court Upholds International Removal of Google Search Results <http://www.michaelgeist.ca/2017/06/global-internet-takedown-orders-come-canada-supreme-court-upholds-international-removal-google-search-results/>

Recommendations for Action

Cuts Like a Knife: Bryan Adams Calls for Stronger Protections Against One-Sided Record Label Contracts <http://www.michaelgeist.ca/2018/09/adamscopyright/>

Australian Copyright Scandal Points to the Need for Greater Oversight of Copyright Collectives
<http://www.michaelgeist.ca/2017/04/australian-copyright-scandal-points-need-greater-oversight-copyright-collectives/>

From Copyright Term to Super Bowl Commercials: Breaking Down the Digital NAFTA Deal
<http://www.michaelgeist.ca/2018/10/from-copyright-term-to-super-bowl-commercials-breaking-down-the-digital-nafta-deal/>

USMCA sends Canada back to the drawing board on copyright law

<https://www.theglobeandmail.com/business/commentary/article-usmca-sends-canada-back-to-the-drawing-board-on-copyright-law/>

Canadian Publisher on the Term of Copyright: Life Plus 50 Years is “Already Too Long”

<http://www.michaelgeist.ca/2018/05/canadian-publisher-on-the-term-of-copyright-life-plus-50-years-is-already-too-long/>

Why Copyright Term Matters: Publisher Study Highlights Crucial Role of the Public Domain in Ontario Schools <http://www.michaelgeist.ca/2017/09/copyright-term-matters-publisher-study-highlights-crucial-role-public-domain-ontario-schools/>

The Trouble With the TPP’s Copyright Rules

https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2016/07/Trouble_with_TPPs_Copyright_Rules.pdf

Canadian Government Commits \$50 Million to Creative Commons Licensed Open News Content <http://www.michaelgeist.ca/2018/11/ccnewscontent/>

Digital Trends and Initiatives in Education: The Study the Association of Canadian Publishers Tried To Bury <http://www.michaelgeist.ca/2018/04/digital-trends-and-initiativesstudy/>

Canadian Copyright, OA, and OER: Why the Open Access Road Still Leads Back to Copyright <http://www.michaelgeist.ca/2017/10/canadian-copyright-oa-oer-open-access-road-still-leads-back-copyright/>

Canada’s National Digitization Plan Leaves Virtual Shelves Empty

<http://www.michaelgeist.ca/2016/07/canadas-national-digitization-plan-leaves-virtual-shelves-empty/>

Canada May Be Nearing the Open Access “Tipping Point”

<http://www.michaelgeist.ca/2013/10/canada-oa-tipping-point/>

Swartz’s Death Places Spotlight on More Open Access To Information

<http://www.michaelgeist.ca/2013/01/swartz-death-column-post/>

Setting the Stage for the Next Decade of Open Access <http://www.michaelgeist.ca/2012/09/oa-next-stage/>

Why the Government’s Commitment to “Open by Default” Must Be Bigger Than Open Data

<http://www.michaelgeist.ca/2015/12/why-the-governments-commitment-to-open-by-default-must-be-bigger-than-open-data/>