Reforming copyright is a concern for everyone

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Supporters and opponents of copyright reform paint very different pictures of the impact of the Internet and new technologies on copyright. Advocates, typically categorized as creators, seek new rules to stop both unauthorized copying and attempts to break encryption technologies that protect copyrighted works. They point to the seemingly unstoppable growth of peer-to-peer file sharing services such as Kazaa as evidence that the Internet currently represents the single greatest threat to copyright owners.

Opponents of this type of copyright reform, often characterized as users, argue that the Internet is actually the most promising opportunity for copyright owners as it creates new distribution channels and exposes a far broader audience to under-appreciated music and other work. In fact, opponents fear that the combined effect of new encryption technologies supported by additional legal protections will result in users enjoying fewer rights to use and access work to which they are entitled in the offline world.

While there are elements of truth in both of these positions, the emerging reality is that neither view reflects the Internet's most significant impact — the blurring of the distinction between creators and users such that soon everyone will be both creators and users. The days of content creation resting solely with a select few movie studios, music promoters, and book publishers is long gone.

In today's Internet, we all access traditional content on mainstream media sites, but alongside those activities we increasingly craft emails, maintain blogs or other Websites dedicated to a dizzying array of topics, publish our digital photos, contribute to community chat rooms, opinion sites, or open source software initiatives, and share our attempts at music creation with the world. In short, we both consume content and create it.

This new reality is spearheading a profound change in the world of copyright as the widespread realization that copyright matters grows. No longer an issue best left to lawyers, individuals are taking an interest in copyright policy as never before. This leaves policy makers with the challenge of balancing competing stakeholder interests in an environment where everyone believes that they too are stakeholders.

Consider the recent controversy involving a small provision inserted into a bill dealing with the Library of Canada archives. The provision called for the extension of the term of copyright for unpublished works of deceased authors. Ten years ago, the topic would have generated scarcely an acknowledgement, much less a major policy debate. Today, hundreds of individuals caught wind of the proposal and quickly mobilized into action.

Dubbed the Lucy Maud Montgomery Copyright Term Extension Act — referring to a controversial copyright term extension bill in the United States that was passed with the active support of the Disney Corp., which sought to delay Mickey Mouse's entry into the public domain — the Canadian bill arose at the request of the heirs of author Lucy Maud Montgomery of "Anne Of Green Gables" fame, who wrote 10 volumes of diaries during her lifetime that were not published until after her death. When it became clear that those works would enter into the public domain in 2004, the heirs sought a copyright extension from the government to maintain exclusive control over her works until 2018.

Any hope that the bill would sail through under the public's radar screen quickly vanished. Historians, copyright fairness advocates, and individuals all spoke out against the extension, noting that it did little more than transfer the value of the work from the general public to Ms. Montgomery's heirs while failing to create any new work or providing society with
any tangible benefit. In addition, opponents feared that this legislation was the start of something ominous, foreshadowing a U.S.-style copyright term extension.

Those concerns seemed to resonate with a parliamentary committee considering the bill since it agreed to effectively drop the provisions just before the House of Commons recessed for the summer. Celebrations by opponents of the bill proved premature, however, as last week, with opposition MPs now out of town, several Liberal MPs, who perhaps have yet to appreciate the changes afoot in copyright, decided to go ahead with the legislation leaving the extension provisions intact.

Although the bill may yet face more opposition when it comes before the full House of Commons in September, the lesson remembered won't be that a select group of copyright owners ultimately got their way. Rather, it is that copyright reform — no matter how small the issue — is a matter of concern for all, ensuring that every issue will be contested until the final hour.

Late last week, Canadian Heritage announced that it would conduct hearings into Canada's copyright reform priorities in the fall. On the agenda will be digital copyright reforms, the liability of Internet service providers, the blank media levy, database protection, copyright term extensions, along with a host of other issues. Copyright's many stakeholders will no doubt be ready.

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