Flexible user rights

Background

Copyright law has long been described as promoting the public interest through a balance of exclusive protection for rights holders linked to limitations and exceptions to such rights for users. As described in a recent decision of the Canadian Supreme Court, promoting the public interest in the creation of and access to new works requires that “both protection and access must be sensitively balanced”; “users’ rights are an essential part of furthering the public interest objectives of the Copyright Act.”

Copyright laws around the world, especially in developing and middle income countries, are in a state of rapid flux. Prompted by trade agreement implementation, industry lobbying and the new cultural, social and economic context ushered in by the digital age, copyright law reform projects have become ubiquitous. But despite the general recognition of the need for balance in copyright systems, and the integral nature of limitations and exceptions (aka “user rights”) to reaching that balance, most copyright reform processes around the world focus most intently on only one side of the system. Reforms seek to modernize owners’ rights – often through broadening the scope, term and enforcement mechanisms for copyrights – without correlative advancement in limitations and exceptions serving the users of copyrighted content.

Activities

Our past and present activities on flexible user rights are:

- From 2013-2015, we are partnering with American University College of Law, Washington DC on an IDRC-funded project Exploring the Value of Openness in the Digital Economy, involving surveys of consumers and producers about the value of flexible user rights in copyright.
- With support from OSF, CI sought to engage with copyright collecting societies to agree on expanding fair use of copyright materials by consumers. In this way, we can legalise existing consumer uses of such materials, where law reform to formalise the legality of those uses is not a likely short term prospect. This led into a 2012 code on the quotation right under copyright.

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