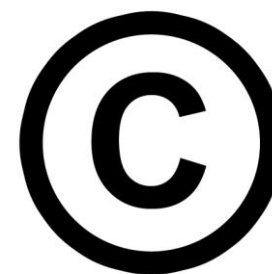


COPYRIGHT AND PUBLIC SECTOR INFORMATION: A COMPARATIVE STUDY

Emily Benton
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Public Sector Information (PSI) Copyright and Canadian Crown Copyright

- *Copyright Act*, RSC 1985, c C-46, s 12.

Where copyright belongs to Her Majesty

12 Without prejudice to any rights or privileges of the Crown, where any work is, or has been, prepared or published by or under the direction or control of Her Majesty or any government department, the copyright in the work shall, subject to any agreement with the author, belong to Her Majesty and in that case shall continue for the remainder of the calendar year of the first publication of the work and for a period of fifty years following the end of that calendar year.

R.S., 1985, c. C-42, s. 12; 1993, c. 44, s. 60.

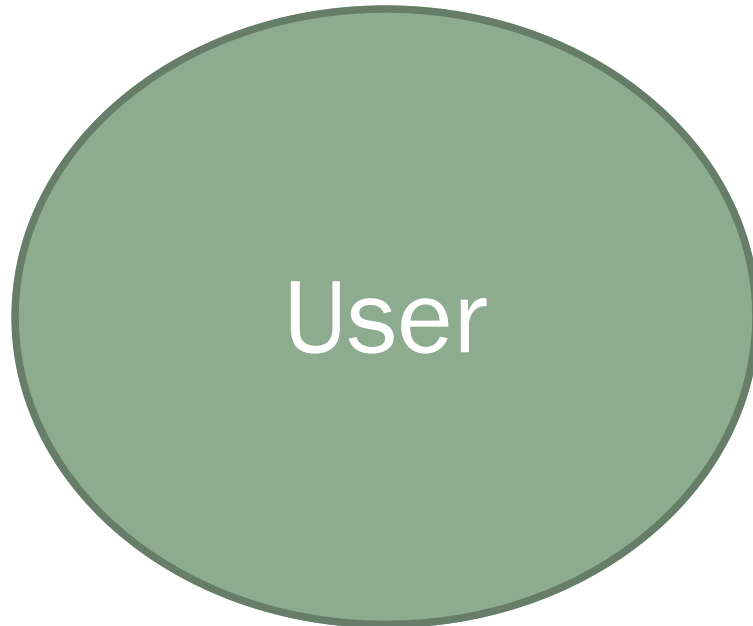
Crown Copyright in Canada

- C-440: An Act to amend the Copyright Act (Crown copyright)
 - *Introduced April 9th, 2019*
- INDU Statutory Review of the Copyright Act
 - *Presented to House of Commons June 3rd, 2019*
- *Keatley Surveying Ltd. v. Teranet Inc.*
 - *Decided September 23rd, 2019*

Copyright vs. Droit d'auteur

Copyright System / British System /
Common Law System

Droit d'auteur System / French
System / Civil Law System



Crown Copyright in Our Current Copyright Context



- *Théberge v Galerie d'Art du Petit Champlain Inc*, 2002 SCC 34.
 - *“The proper balance... lies not only in recognizing the creator’s rights but in giving due weight to their limited nature.”*
 - *“Excessive control by holders of copyrights and other forms of intellectual property may unduly limit the ability of the public domain to incorporate and embellish creative innovation in the long-term interests of society as a whole, or create practical obstacles to proper utilization.”*
- *CCH Canadian Ltd v Law Society of Upper Canada*, 2004 SCC 13.
 - *“...the purpose of copyright law was to balance the public interest in promoting the encouragement and dissemination of works of the arts and intellect and obtaining a just reward for the creator.”*

Foreign Legislative Treatment of PSIs

Copyright Countries		
Country	PSI Legislative Exemptions	Legislative Section
U.S.A.	Copyright not available for government works	§105
New Zealand	Bills, acts, regulations, bylaws, debates, reports, jurisprudence	s. 27
Uganda	Legislation, judgements, reports	s.7
Australia	One copy of legislation and judgements permitted	s.182a
India	None	s.17(d)
United Kingdom	None	s.163
Canada	None	s.12
<i>Droit d'auteur</i> Countries		
Norway	Legislation, judgements, statements that concern the public exercise of authority, made by a public authority or published by the public authorities	s.14
Poland	Official documents, materials, symbols and logos	s.4
Czech Republic	Official work or draft of the government, works of "public interest"	s.3(a)
Germany	Acts, ordinances, official decrees, official notices, decisions	s.5
Denmark	Acts, administrative orders, legal decisions and similar official documents	s.9
Mozambique	Official texts of a legislative, administrative or judicial nature	s.5
France	No legislative exceptions – Copyright belongs to the government with some rights reserved to the author	Art L-111-1-1, L-121-7-1, L-131-3-1


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	No copyright over PSIs
	Some exceptions
	All PSIs covered by copyright

EU Directive on the Re-Use of PSI




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 Subject to EU Public Sector Information Directive, recently replaced by the Open Data Directive

EU Directive on the Re-Use of PSI

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Response to Directive

	Adopted Policies
	Adopted Legislation
	Adopted Policies and Legislation

Open Government Partnership

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 Member of Open Government Partnership (OGP)

Conclusions

- There is no consistency across user-centre or author-centric copyright systems in how copyright over government document is addressed.
- Countries generally respond to Open Government initiatives with legislative and policy work-arounds in lieu of amending or abolishing existing copyright over PSI.

QUESTIONS?

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