

Info Policy News: Open Government consultation, PIPA and SOPA, and more

By Joseph Haigh.

Since the last Info Policy News column, the Information Policy Committee (IPC) has remained highly active. We co-sponsored a workshop on Access Copyright and Bill C-11 with the BCLA Copyright Committee, prepared a submission to the federal government's public consultation on Open Government, and continued to see a great deal of activity on the IPC listerv. Topics arising this fall/winter included the Crookes v. Newton decision, usage-based billing, global internet throttling, SOPA/PIPA, Penguin's move to limit access to e-book titles by libraries, the closure of the departmental library at Human Resources and Skills Development Canada, and the U.S. Research Works Act.

Crookes v. Newton

On October 19, the Supreme Court of Canada ruled on Crookes v. Newton, a case with the potential to influence the way hyper linking is understood under Canadian law. The case originated in a dispute over defamation alleged to arise from links on Jon Newton's website to another site containing defamatory material about Wayne Crookes. (For further details of the case, see the CBC story here: <http://tinyurl.com/4yuugge>.)

Thankfully, the court ruled that linking to the defamatory material did not itself constitute publication. If it had ruled otherwise, the decision could have had a chilling effect on the internet, compromising one of its fundamental mechanisms.

The full decision can be read here: <http://scc.lexum.org/en/2011/2011scc47/2011scc47.html>.

Canada's Open Government consultation

Members of the IPC drafted a submission on behalf of BCLA to the Canadian government's recent public consultation on open government (<http://www.open.gc.ca/index-eng.asp>).

BCLA's submission emphasized the value in mandating open access to research funded by Canadian taxpayers, whether this research is in the form of reports, articles, or data. To reinforce this

point, the submission drew attention to BCLA's Resolution on Open Access (<http://tinyurl.com/6qx8d7o>).

Because much of the public is not on the lookout for these types of consultations, the government should engage citizens through active outreach. The submission emphasized that public libraries play a vital role in providing information (and thus fostering informed participation), as well as providing internet connectivity and assistance in finding and using information. Given the ongoing digital divide, the government also needs to look into modes of engagement besides the internet.

Looking ahead

Where public access to information is concerned, we can expect developments on a number of fronts in the year to come: e-book licensing, open government, the recently signed Canada-U.S. perimeter security agreement, and the reintroduction of lawful access legislation and the Copyright Modernization Act in the House of Commons, to name but a few.

To learn more about Lawful Access, be sure to check out the documentary "(Un)Lawful Access: Experts Line Up Against Online Spying," produced by Faculty of Information Professor Andrew Clement and post-doctoral fellow Kate Milberry from the iSchool at the University of Toronto: <http://unlawfulaccess.net/>. The film was recently screened at the W2 Media Café as part of a symposium on Lawful Access. The BC Civil Liberties Association has also produced an in-depth report critiquing such legislation as a move to create a surveillance society: <http://www.bccla.org/othercontent/Moving-toward-a-surveillance-society.pdf>

On the bright side, keep an eye out for the release of free CANSIM data (discussed in *The Tyee*: <http://tinyurl.com/87w44l8>).

Five facts: SOPA and PIPA

The Stop Online Piracy Act (SOPA) and Protect Intellectual Property Act (PIPA), two bills before the U.S. congress that are intended to deal with issues of copyright infringement and intellectual property theft online, were widely protested in January. Critics of the way the bills are formulated cited the potential consequences for innocent parties and for the internet as a whole. As the American legislation has potential implications for Canadian internet users and Canadian libraries whose services depend on the global, relatively content-neutral internet, it is worth providing some facts about the PIPA and SOPA debate. Sources and further reading are listed below.

1. Under PIPA and SOPA, the global internet would be subjected to U.S. legislation. For instance, as Michael Geist has noted, U.S. copyright law could be applied to Canadian sites, where works pass into the public domain sooner than in the U.S.
2. PIPA and SOPA have raised concerns over a deficit of judicial oversight and due process, possibly enabling vigilante attacks on websites and online businesses. Under PIPA, IP rights holders can gain a court order blocking a site (the site can be from the U.S. or elsewhere) without the accused party being able to present evidence on its own behalf. Under SOPA, rights holders are authorized to act without judicial oversight at all – for example, by contacting a credit card company with evidence of an infringing site, which will then have its ability to deal with the credit card company abruptly halted (Lemley, Levine, and Post 36).
3. The bills authorize interference with “the Internet’s core technical infrastructure,” such as the Domain Name System (DNS), upon which other protocols depend (Lemley, Levine, and Post 34-5).
4. Among the supporters of SOPA listed by congress are the academic publishers Elsevier and Macmillan.

5. Even if defeated, the bills reveal the potential character and direction of future internet regulation debates.

More on SOPA and PIPA:

- Robert Hiltz, “Canadian sites would feel fallout of U.S. copyright bills”:
<http://www.vancouver.sun.com/business/Canadian+sites+would+feel+fallout+copyright+bills/6018611/story.html>
- Michael Geist’s blog:
<http://www.michaelgeist.ca/tags/sopa>
- Heather Morrison, “Protect the internet against censorship! Stop the Stop Online Piracy act - some tips for all of us”:
<http://poeticeconomics.blogspot.com/2012/01/protect-internet-against-censorship.html>
- Corey Williams (ALA), “PIPA, SOPA and OPEN Act Quick Reference Guide”:
http://www.districtdispatch.org/wp-content/uploads/2012/01/ALA_pipasopaopen_ref_guide.pdf
- Mark Lemley, David S. Levine, and David G. Post, “Don’t Break the Internet!” (*Stanford Law Review Online*):
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1978989

About the Information Policy Committee

The BCLA Information Policy Committee (IPC), a standing committee of the British Columbia Library Association, aims to advance and preserve access to information, and to advocate for the public interest in government decisions relating to information policy.

Any BCLA member is welcome to join the IPC’s activities. For more information, join our listserv by using the BCLA website listserv management tool here: <http://www.bclibrary.ca/listservs/bcla/>

Joseph Haigh is an on-call librarian at Langara College. He has worked as an academic librarian for The Electronic Library Network, The British Columbia Institute of Technology, and Simon Fraser University.