



educational resources on the internet, open and free for all to use. These educators are creating a world where each and every person on earth can access and contribute to the sum of all human knowledge.¹

The challenge is to ensure teachers can easily find resources that are licensed in a way that encourages them to use, share, and modify good content, and more easily develop relevant learning materials for their students. As well as greatly enhancing efficiency and creativity of teaching and learning, open education resources also encourage teachers and students to build on the work of others and to share their own creative work.

Searching for open resources

Licence-based search is becoming increasingly important and is beginning to appear in both education and general search engines. Services such as Education Network Australia (edna, <http://www.search.edna.edu.au>) was among Australia's first collectors/aggregators of online education resources freely available on the web. A recently added search option enables filtering by licence as a way of further promoting the use of open education resources.

Getting started with Open Education

OER Commons www.oercommons.org provides a directory of Open Education resources by subject area and year levels, as well as search, tagging, rating, and reviewing.

OpenEd <http://opened.creativecommons.org> is a new Open Education community encouraging discussion and sharing of Open Education projects around the world.

WikiEducator www.wikieducator.org is a community of educators who train others in development of open education resources.

Australia has been slow to adopt open licences in school education, and availability of open education resources created for Australian curriculum is limited. As we move towards a national level Australian curriculum it is important that we work to build an Australian open education collection.

Pru Mitchell
Senior Education Officer
pmitchell@educationau.edu.au

1. *Horizon Report 2009* Australia-New Zealand edition <http://www.nmc.org/pdf/2009-Horizon-Report-ANZ-Edition.pdf>
2. MCEETYA, 2005, *Learning in an Online World: Pedagogy Strategy*, <http://url.edna.edu.au/66bM>
3. *Cape Town Declaration*, 2007, <http://www.capetowndeclaration.org/read-the-declaration>

Copyright Future: Copyright Freedom Conference Canberra 27–28 May 2009

A copyright conference organised by Professor Brian Fitzgerald of Queensland University of Technology, and held under the auspices of the QUT law school and the ARC Centre of Excellence on Creative Industries and Innovation, may contribute to new directions in copyright policy in Australia.

Opened by The Hon Robert McLelland, the Copyright Future: Copyright Freedom conference, held on 27–28 May 2009, represented a significant shift in public debate in Australia over principles of copyright law. Instead of concentrating presentations and discussion on the political concerns of traditional copyright owner/user factions, the conference invited speakers to examine the history of copyright lawmaking and consider ways to create a future in which information is accessible, not foreclosed.

The conference took place at Old Parliament House, Canberra, where politicians passed Australia's current copyright legislation, the *Copyright Act 1968*. Australia's first federal copyright statutes were passed in Melbourne, in 1905 and 1912, but a large and very significant part of Australia's copyright history is associated with the politicking and debate that occurred in both chambers over more than 60 years.

In that period and beyond, copyright law developed largely in accordance with the requirements of copyright industries, publishers, broadcasters, filmmakers, software producers, and music industry. Many users and consumers of copyright material considered that the law exerted a stranglehold, unduly restricting dissemination of, or access to, information.

Conference presenters focused on the years leading up to, and extending beyond, the passage of the Copyright Act in 1968, relating signal events that occurred in the halls and chambers of Old Parliament House. They considered more generally the history of copyright lawmaking in Australia, explaining why laws that originally regulated the supply of books came to regulate the supply of information by different technologies.

Overseas speakers included Professor Adrian Sterling, of Queen Mary College London – a distinguished Australian expatriate copyright scholar, and in the 1950s and 1960s, Deputy Director of the International Federation of Phonographic Industries – Professor Julie Cohen of Georgetown University, and Professor

Lawrence Lessig of Harvard University, the founder of Creative Commons. The Honourable Michael Kirby introduced and commented on Professor Lessig's presentation.

Speakers from Australia included the eminent constitutional scholar Professor Leslie Zines, well-known economist Nicholas Gruen, Professor Anne Fitzgerald of QUT, John Gilchrist from the University of Canberra, and Benedict Atkinson, author of *The True History of Copyright: the Australian Experience 1905–2005*. Speakers from New Zealand and Canada provided perspectives on the effect of international copyright law and trade rules on 'medium' powers, that is, countries like NZ, Canada, and Australia, that import more copyright information products than they produce or export. In these nations, sophisticated consumer markets demand more product, but consumers often complain of restricted access rules and high prices.

The trio of Zines, Sterling, and Gilchrist enabled questions of history to be debated with particular depth. Each man played a prominent role in consecutive events that shaped and created the modern Australian copyright law. Zines and Gilchrist were secretaries, and are the last survivors, or perhaps the two most significant review committees in the history of Australian

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copyright lawmaking, the Spicer Committee and the Franki Committee. The Spicer Report's recommendations (1959) formed the basis for the provisions of the *Copyright Act 1968*. The Franki Committee reported in 1975, recommending a form of statutory licence for educational copying in libraries of schools and universities.

As a senior representative for the international recording industry, Adrian Sterling played a prominent role in the lobbying process that preceded the passing in 1968 of the Copyright Act. He outlined to the conference his meetings with the then Attorney General, Nigel Bowen, and the successful outcome of his efforts to secure recognition of the record performing right.

Ben Atkinson began the discussion of copyright history enumerating key points in the road from the first federal copyright enactment in 1905 until the 1968 Act. He explored the psychological concept of locus of control, observing that the theory supplies insight into Australia's legislative approach to copyright. Australia has externalised the control locus, perceiving that conformity with UK and US wishes is necessary to protect against a perceived hostile external environment. Professor Sam Ricketson, perhaps the world's leading scholar on the Berne Convention, which established the normative framework for modern copyright law, summed up the history section succinctly, providing comments on the points made by speakers.

Lawrence Lessig, the keynote speaker, and Julie Cohen explored related themes. Lessig discussed the copyright culture wars and the need for 'peace', or specifically, rational acceptance that copyright law is a desirable instrument for regulating information flow, provided that rights are neither onerous nor onerously enforced. Cohen examined the link between copyright and creativity, and showed how creative output builds upon prior output. Although creative output is in part derivative, the demarcations established

by copyright do not accommodate creative borrowing. Thus the litigious copyright holder asserting rights may also be the beneficiary of uncredited, often subliminal, borrowings that underlie (or, more abstractly, inform) the protected work.

Exploring similar themes in the Australian context, Dr Terry Cutler, author of the Cutler Report on innovation, and Professor Graham Greenleaf noted the importance of ensuring that law facilitates information flow and information, and does not restrict the growth of a vibrant public domain.

At the end of the first day, conference participants adjourned to the old lower house legislative chamber, reprising copyright debate in the place where the current Copyright Act was passed. A number of speakers proposed legislative reforms to improve the current legislation. Topics covered included educational exceptions, global internet licensing, orphan works, and unwritten exceptions. The second day involved discussion of the crown and copyright, indigenous people and copyright law, and music copyright. Distinguished conference speakers included Professor Tom Cochrane (Deputy Vice Chancellor QUT), Neale Hooper and Professor Phil Graham of QUT, Maroochy Barambah, Dr Prodromos Tsiavos (London School of Economics), Senator Kate Lundy, Dr Matthew Rimmer (ANU), Delia Browne, Jessica Coates, Dr Peter Black, Peter Coroneos, and Nic Suzor.

A book of essays and transcripts from the conference outlining key elements of Australian copyright history, and new approaches to policy, will be published in 2010.

Benedict Atkinson
QUT Law Faculty
benedict.atkinson1@bigpond.com

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