

Book Review: *What if we could reimagine copyright?*

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Giblin, R., & Weatherall, K. (Eds.). (2017). *What if we could reimagine copyright?* Acton, Australia: ANU Press.

An excellent set of essays for policy makers, students and copyright activists, covering some of the main tensions in copyright between user, right-holder and the public interest. A diverse set of opinions create a fantastic space for discussion, and potentially a clarity for a way forward in copyright, a traditionally obscure topic.

“Digital files cannot be made uncopyable, any more than water can be made not wet” (Schneier, 2001).

Bits were made to copy – it’s just a part of their bit-nature. Obviously, copying is at the heart of copyright – the legal framework around what we are allowed to copy, or forbidden to. Copyright needs to be seen as a Good Thing – those who imagine up new things need to be encouraged, and protecting how they can exploit their own ideas, and even make a living from them.

A truth recognised by many is that the framework that copyright provides now, a musty, fusty, weed encrusted, print-era, ramshackle wall that restricts reuse of content based on who has the biggest wallet, and the ability to react to a potentially radically different economy is not fit for purpose. Not just because it went digital, we’ve explored that in the last 20 years really effectively. The inadequacy of current copyright frameworks are because of the upstream effect of going digital, where we are entering information economies based in plenty, not scarcity. Sometimes – especially in the academic world – the social capital of being associated with a work is more valuable than the money that you would get licencing, or just outright selling – the work itself. Software ecologies understand this, your phone, the computer you’re reading this on, the network you downloaded this on are all run on software no one paid for, yet plenty of people are making money [1].

So, we are in a perfect juncture to reimagine copyright. Especially in New Zealand as we are going through a full review of our copyright laws (Ministry of Business, Innovation and Employment, 2018). We have to be careful as recent events in the European Union copyright reform show us that it’s not the creators or consumers of work are the most traditionally powerful – its those who have bought the rights to work: the rights holders (Reda, 2018). The Disneys, the film companies and academic publishers. The time-honoured tactics of Fear Uncertainty and Doubt about copyright are well practised by rights holders: to the point a colleague, lending a book to a friend at a dinner party was paralysed for an instant as he thought, “do I have the right to do this, lend this content to someone else?”

Rebecca Giblin and Kimberlee Weatherall have taken the job of asking people around the world what, given a clean slate, would copyright look like?

In their opening introductory essay, Giblin and Weatherall disengage the current copyright ecosystem from the principles it is meant to serve – that works are, at the same time the creators to do with as they want, and interest of the rest of the world in sharing the benefits of those works. This is to lay bare the tension between these – the public interest v. the creators rights, if you will. The aim of this collection of essays is, “not to attempt to compile ... a coherent single whole, but to present some specific proposals and ideas across the full scope of the copyright system” (Giblin & Weatherall, 2017, p. 22).

The essays then drop into a deep intellectual gulf of theory and practice. How does copyright reflect art for art’s sake within a capitalist/economist hegemony? Is there a right to access the work of others? What if copyright existed in the lifetime of a patent? Or forever? Liberal, libertarian, pragmatic and inventive views populate the essays here, and as the editors say, “each [essay] is a complex and standalone set of ideas, and each deserves its own reading” (p. 315). Some are particularly dense, and require a deep theoretical or legal reading – be warned, but also be encouraged, as especially for students this might well open up many other avenues to explore. Threading together themes raised by the diversity of ideas in the final chapter Giblin and Weatherall identify:

- A stronger protection for the creators of content, rather than just rights holders
- A reciprocity of access – for the privilege of print, make that content accessible to all – implying shifting format to the benefit of those who wish to consume it
- A range of rights for different works and content, rather than a one size fits all needs to exist.

The last question they pose is, “Why entertain the impossible?” To the reviewer, this is simple – because we have no real choice. Though a lot of time is spent looking at the current set of trade and international arrangements (and those in the near future, remembering most of this book was compiled pre-Trump’s revision of the TPP), we have no choice but to reimagine copyright, as the current ecosystem becomes more and more skewed towards

rights holder's ability to extract economic value from all content, and that unsustainable model not only stifles creativity and access for author and end user alike, and deeply affects the way that we can reimagine everything else about our world. While we cannot share the fruits of our intellectual labour freely, development will continue to be inequitable, and the only other alternative is a thriving pirate culture.

What if we could imagine copyright is available for free download from ANU press at <https://press.anu.edu.au/node/2190/download>

[1] Yep, even if you are running Windows, or are an iPhone, both rely on open source components that would be difficult, if not impossible to recreate commercially. And why bother, if they are there and free?

References

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