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New book on copyright shakes the foundations

Copyright controls have largely benefited big business rather than the creators whom the legislation was intended to protect, a new book argues.

The book, by Sydney lawyer Benedict Atkinson and published by Sydney University Press, argues that copyright doesn't encourage creativity the way many in the field say it does.

"Creators will always create regardless of their rights," Atkinson says. In *The True History of Copyright* he debunks propositions previously taken for granted by intellectual property lawyers and policymakers.

"Until now, textbooks, lawyers and government policymakers have agreed that copyright laws were made to 'balance' the interests of copyright owners and the consumers of copyright products," he says.

"The 'balance' theory holds that copyright laws were designed to provide creators with the incentive to produce - without laws, creators and producers would cease production.

"My examination of archival and other contemporary records instead shows that most of the 20th century copyright legislators gave no consideration to questions of balance or incentive. They made laws to satisfy the needs of vested interests."

"The recording industry demanded copyright protections only because it feared that lawmakers would grant musical authors and publishers control over the production of music.

"Later, the music industry waged commercial war on radio stations fearing they would undermine the sales of records. Eventually radio broadcasters obtained broadcast copyright."

The book, subtitled *The Australian Experience 1905-2005*, looks at the history of Australian copyright legislation (as well as developments in the United Kingdom and elsewhere). Atkinson writes that ignorance of history blinded policymakers to the fact that for most of the 20th century legislators wanted non-commercial uses of copyright material to be free of charge.

Each year, educational and government users of copyright material in Australia are charged fees for use well in excess of \$100 million. His book suggests that despite statutory fee collection schemes for non-commercial use, government has scope to authorise more free access to copyright material.

Atkinson's research presents an unprecedented challenge to policymakers. If laws were not usually made to strike a balance between interests, policymakers may be forced to admit that they serve the needs of industries far more than consumers.

What: Launch of *The true history of copyright: the Australian experience 1905-2005*.

Where: Nigel Bowen Chambers, Level 9, 169 Phillip St, Sydney

When: Tuesday 20th November, 6pm

About the author: Benedict Atkinson is a Sydney lawyer.

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Sydney University Press: www.sup.usyd.edu.au