

- Michael Geist: [00:00](#) This is Law Bytes, a podcast with Michael Geist.
- Wochit Entertainment: [00:10](#) More than 1000 Hachette book group authors, including Malcolm Gladwell, Stephen King and James Patterson have urged amazon.com as directors to end a contract dispute with their publisher that has costs some writers, 90% of their sales on the online retailers website.
- Bryan Adams: [00:32](#) It's not fair. It stifles your creativity. Yeah. And that can have a huge effect on people. I don't even want to start naming the names of people that have had their, their copyrights, you know, whisked from underneath their feet from contracts that they've signed as the youngsters. , and I'm not going to say that, you know, it happens in every walk of life, not just in music, but we've all had to make deals in our lives that, you know, perhaps I wish I could have done that better, but to be, to be tied to something for such a long period of time without any negotiation whatsoever. I think we can do better.
- Michael Geist: [01:12](#) What if copyright law took authors rights seriously? Many groups claim to do so, but professor Rebecca Giblin, one of the world's leading experts on creator copyright isn't convinced. Professor Giblin are used at creators are often placed at the center of the debate only to be largely ignored by other stakeholders. In fact, Professor Giblin, a law professor at Monash University and one of Australia's only law future fellows has launched the author's interest project to provide much needed evidence and data to help guide future policy reforms. A major initiative funded by the Australian Research Council, the project is already making waves with new cross border data on the availability of ebooks in libraries and the impact of copyright term on licensing. I sat down with Professor Giblin during a recent trip to Australia to talk about the project, the latest data and publications and why Canadian artist, Bryan Adams maybe on to something when it comes to his copyright reform proposal to benefit creators.
- Michael Geist: [02:20](#) Welcome to the podcast. Can you tell me a bit about the project? What brought you to it and what you're hoping to achieve?
- Rebecca Giblin: [02:26](#) Really a long time in the making. I've, I've, I guess I've been working and living and breathing copyright for about 15 years now. And it became really evident to me that copyright was failing in all of its key aims. If we break it down, we see that it's about incentives and rewards. It's about incentivizing the creation of cultural and informational works, not as an end in and of itself, but in order to ensure access to knowledge and

culture. And it's intended as a reward beyond those incentives, we want to reward and recognize authors for their creative contributions, but it's failing in both of them. So if we start with the incentives in most places in the world, we award copyright upfront as a lump sum. And that is that grant is given regardless of whether anybody actually does commit to making the work the available.

Rebecca Giblin: [03:25](#)

And what we see more and more from the evidence that's coming out is that those long upfront lump sum grants of rights actually result in less access than if there wasn't a copyright at all. So I've just finished a big paper that we've been working on for over a year. We, we've looked at, we identified a sample of 250 culturally valuable authors. And then we had a look at how available their works were to libraries in different countries that had different copyright statuses. And what we found is that those works were more available in countries where they're in the public domain like Canada and New Zealand than with they are in copyright like the US and Australia. But I think even more importantly, more than half of those authors had zero books whatsoever available for libraries to license. And what that tells us is that even though shorter terms of life plus 50 are not allowing investment in books, they're lasting longer than the commercial interest.

Rebecca Giblin: [04:25](#)

So we're not seeing that copyrights helping those access aims of making works in during available. But we're also seeing that they really fail those rewards aims as well because when you make works available in that upfront lump sum that's then available to be extracted from the author who's the first owner of the copyright. And it's really interesting. I've recently been doing some research into, you know, the origin of the modern author, the first copyright statutes, how copyright began to be thought of as property and every single time where you see this, this argument that it should be property for the author. It's so that the next sentence says, which they should then be able to transfer in full. And so it's been a long time coming that authors have had investors take all of their rights and that's really a natural consequence because no rational investor is going to sit down and say, well, I'm just going to take the minimum rights I need to incentivize my investment. They're going to take everything they can get just in case.

Rebecca Giblin: [05:29](#)

We've got to the point where standard form Hollywood contracts routinely say that they take rights not only, forever, and all of the rights, but not just on the planet earth, but also throughout the universe at large. So even if a lucrative extraterrestrial market does emerge, it's still not going to be the

artist that actually get rich. So these things are combined to just really infuriate me so much because I was seeing that authors keep getting used that always at the centre of the copyright debate and they're put there as stalking horses to mask other people's economic interests. People are not, when they talk about authors and the importance of authors in copyright reform, they're not talking about actually getting authors a bigger share. They're talking about filling other pockets almost every time.

Rebecca Giblin: [06:22](#)

And so my project, I, my, I guess my creation story, if you will, is that I grew up in a house without books and for me as a little kid that loved reading library saved me and books saved me. And it makes sense that in my research now that I'm interested in both, I am, I love reading and publishing and authorship, but also I'm really, really interested in access because I know what it's like to be a little kid who's starving for something to read. And so my working hypothesis for this project is, well, what if we actually took authors interest seriously instead of just pretending to if we actually took their interest seriously. What, what kind of thinking might that unlock not only for helping get them paid, but also for improving access for everybody else. And so that's really the origin of the author's interest project.

Michael Geist: [07:17](#)

That's interesting. What kind of reaction have you got, especially from authors about this project? I know speaking from a Canadian perspective, copyright policy has been incredibly divisive. You tend to be seen as either being in one camp or on a user side or on a rights holder side. And there's very little distinguishing amongst that, either both different kinds of users and also different kinds of rights holders. What kind of response have you got from the author communities? Well, as perhaps even the broader rights holder community about trying to sort of open up the, the thinking and discussion in the way that you'd like to go.

Rebecca Giblin: [07:54](#)

We've had exactly that kind of divisiveness here, to the point where a couple of years back there was a journalist who wrote some really highly defamatory material about my work and some colleagues work in particularly about these authors interest project, which he insisted was all about fair use. Even though it was, there was no mention of fair, use Well, fair use is a very triggering term here in Australia where we're working our way through a copyright reform process. And you know, that, that actually it was, it was a really serious matter or it led different calls from the heads of the universities to me and my colleague. And in the end we actually had to have to hire a lawyer and, and seek redress because the, the allegations that

have been made had been so serious and had such potential to adversely impact our careers and the work that we do.

Rebecca Giblin:

[08:45](#)

And you know, we, we, we followed that through. We very quickly actually, because it was such an egregious case, we, got a public apology from the publications that had published this. They amended it to remove the defamatory statements, and they paid our costs. So that was, I think that was a big sign that we are right there. But it spoke to a bigger problem for me, which is that even, you know, to kind of, no matter what the work says, there are people who can't hear you and they can't. It's not cutting through. And I think that was a real wake up call for me to say. Well, I think before that I really thought that my work stood on its own. I've been, I've been working on author's interests as well as access interests for my entire career. But I, I suppose I realized if he was, I kind of expect people to read my books and my articles and figuring it out and maybe they don't even get to events to listen to me in person and maybe if I'm talking, they don't even hear me.

Rebecca Giblin:

[09:39](#)

Like this person, they did seek comment from us and they clearly didn't hear us and they, they wrote all of these things. So after that I decided that it was time to really grow and, , as much as I could push to sit down with people and to listen to them and to do what I could to get them to hear me as well. And since then, I'm, I'm actually really encouraged with how it's going. I've been having, you know, I should say that for the author's interest project, one of the big things that we're really interested in is reversion rights the return of rights, the authors after a certain amount of time or some other trigger. And that's really interesting because it's, it's getting to both of those things that I'm interested in, which is giving authors another bite at the cherry and the potential to exploit their work and get more of the value of that work.

Rebecca Giblin:

[10:27](#)

But also to unlock rights for improved access for libraries and cultural organizations and the general public. And so when I started talking about these ideas, I was again, getting lots of industry push back and, I really wanted to do some research to document what was happening in practice. And the Australian Society of Authors had this archive that I found out about 60 years of contracts that they had been in advising on. And I thought that was a gold mine. That was absolutely what I needed to access in order to find out, you know, whether, whether these ideas I had about what was problematic in these contracts were borne out by the evidence or whether I needed to be looking at another track. And so I started, I started working with them. I'd start to started to meet with him before

this and that at the time that I decided that we, we, obviously this has gone really far and we need to meet each other as humans.

Rebecca Giblin: [11:20](#) I have a humanization checklist actually on my computer when I need to meet with somebody who I think is going to be hostile to show you that I'm a real human being and the not the devil's spawn. And I've been incredibly impressed with the Australian Society of authors. They're now under the leadership of Juliet Rogers who used to be in publishing. She was a very senior publisher in New Zealand and now she's in Australia heading up this organization. And we initially met in an atmosphere of deep distrust and suspicion and we'd been working together with them actually hearing what the other one has to say. And we don't all agree on everything, but we've agreed on a lot more things than I thought we would. And the ASA granted me access to their archive and my phd student and we're the first researchers that have ever had access to that archive.

Rebecca Giblin: [12:10](#) And we've done some research into how those reversion clauses are actually working and how they've evolved over time, which is why that that longitudinal nature of the archive is just so terrific. Cause we can trace them over time. But super important as well because even those earliest contracts, there's one from 1960 in Australia that those still govern those relationships today because our copyright is life plus 70 and even if the author dropped off the twig immediately after signing it, it still covers it. When you look at what those contracts say and how, how inapplicable that is for the world that we live in now, we already start to see the problems with relying on a purely contract based to reversion clauses.

Michael Geist: [12:50](#) You mentioned reversion rights and so let's go there for just a moment. It's an issue that got quite a lot of attention in Canada. Last year we were conducting our copyright review and it doesn't get a lot of attention generally speaking, but the one big exception to that was when Bryan Adams, well known Canadian artist took the time to appear before one of the committees and argued for a change in the reversion right.

CTV News: [13:14](#) The high profile witness up here at on Parliament Hill today to call for reforms to Canada's copyright laws. Bryan Adams caused quite a stir among MPs. Then he got serious over one word. Kevin Gallagher explains, I miss you in Europe when I was young, politicians aren't usually starstruck by witnesses who testify on Parliament Hill. It's an honor to have you here. You're a Canadian icon. The concert you gave in 2005 still gives me shivers.

Michael Geist: [13:42](#) It is striking I think that the music industry entirely ignored Bryan Adams appearance. They didn't tweet about it. They didn't post about it. They almost acted as if it hadn't happened at all, even though it was the most high profile appearance over an entire year of quite literally hundreds of people appearing. Can you tell me a bit more about what the, what the legal issue is and why you see some promise in it in terms of, of trying to equalize things or make, make life better for artists as Adams raised?

Rebecca Giblin: [14:14](#) Well, I I think Bryan Adams' idea is terrific. Not least because I had written a paper arguing for a 25 year reversion right that I had a published just before his appearance. So thanks very much Bryan for bringing your attention to this. That paper's called "A New Copyright Bargain" and if anyone wants to check it out. So reversion rights are about returning rights to authors. And actually in my phd student, Joshua Yuvaraj has reviewed the legislation of every single country and most of the self governing territories in the world. So interested is he in this and found that more than half of them have some kind of statutory reversion right. So they, they have a lot of different forms. Some of them apply where the work's not being exploited anymore. So that's like an out-of-print clause that you would find in a publishing contract.

Rebecca Giblin: [15:02](#) Some of them apply, where, you know, the publisher has gone into liquidation or you know, all a whole range of other circumstances and they're designed to achieve a few things. So the other main one I should mention is time based reversion. So we have that in the United States where creators can terminate their assignments after 35 years. And we also have it still in Canada where it's at the moment after the death of the author 25 years past that the heirs of the author can reclaim those rights. We did have the same reversion right as Canada throughout the British Commonwealth from the 1911 act. And it's really interesting. We've just done some research there as well, having a look at how they came to be abolished and it was just extremely careless. Actually, Michael, I don't know if you've seen about this was with the revision to Berne that made some compulsory licensing position, compulsory licensing provisions that were in that Act noncompliant.

Rebecca Giblin: [16:04](#) And the committee looking at the UK legislation said, oh, well, so we think that the reversion clause is also noncompliant, but it doesn't actually make any sense. The reasoning doesn't hold up. New Zealand agreed when they looked at it, they said, well, we're not persuaded by that at all. We don't think the reasoning holds up. And then somehow they got rid of it anyway. Australia

just sort of agreed over the UK said that it doesn't hold up, so we'll get rid of it too. So it was a really careless way to get rid of a provision for, for grounds that just don't make any sense. But what's really interesting about reversion rights is the scope that what they do is they have the potential to fix the biggest problem that we've got in copyright bargaining and that is that very often creators are obliged to hand over their rights before anybody knows what they're worth.

Rebecca Giblin:

[16:52](#)

And that's the creator, that's the investor as well. And very often they're not worth very much at all. And very often we know for books, for example, most of them have ended their commercial life after maybe four years, but nonetheless publishers almost universally take rights for the entire term of copyright. So life plus 50 or life plus 70 years. So having a reversion right, like a time based reversion right allows the publisher to obtain what they need in order to incentivize their investment. But then it allows the, the actual creator to get their rights back and have another chance at bargaining for that. Maybe with exploiting it by the same publisher, maybe with going with a different one. Maybe taking advantage of one of the new opportunities we've got with digital technologies and doing things like licensing it directly to a digital public library and things like that.

Rebecca Giblin:

[17:45](#)

And this actually makes a lot of sense. When we think about the rationale for copyright, like the idea of having a 25 year reversion right makes all the sense in the world. Is again, you might remember at the start I talked about copyright being about incentives and rewards. When we look at the incentives bit, alright, that is the bit that we need to incentivize either the author or the publisher or both to invest in creating a work and making it available. That's the incentive component of the copyright. And if we think about it, that can go to anyone. We don't mind who gets the incentives. We just are interested here in getting the work produced and made available. Right? And then every bit on top of that, that's can only be justified as the rewards a bit. And that is justifiable only for the author themselves.

Rebecca Giblin:

[18:37](#)

And when we, we, we can actually calculate the incentives part pretty precisely. And it's just a, that's just a simple matter of econometrics. And it depends a little bit on the assumptions that you use, but taking into account pretty basic things like the time value of money, the fact that a dollar received today is worth more than a dollar you receive 50 years down the track and you know, accepted rates of cultural depreciation. We can see that 25 years is the outside and that that's necessary to

incentivize a publisher in any field for even the most expensive, most lavish creative investments to get that work produced and available. And so that leaves us the rest of the author's lifetime and, and change, , that is supposed to be the rewards bit of copyright. And at the moment, that's overwhelmingly captured by the investors, the cultural intermediaries who take rights for the entire term. So it's eminently justifiable to revert rights to authors after 25 years. And then we can think about what kind of opportunities that would open up and like I was talking about, there are all kinds of things that weren't possible when these laws were decided.

Michael Geist: [19:45](#) There's an obvious connection between the reversion rate and what the appropriate term is and public domain and term of copyright more broadly.

TruTV: [19:52](#) Back in the twenties our copyright system work the way it was supposed to. An artist who created a new work could claim the exclusive right to it for 56 years long enough to make a healthy profit for pretty much their entire lifetime. After that, the work entered the public domain, giving everyone the right to copy, share and use it to create works of their own.

Michael Geist: [20:16](#) And you opened by referencing a new piece of research that you have and I was hoping you could spend a bit of time talking about it, especially given that there's a bit of a Canadian dimension where we're still at life plus 50 consistent with the Berne standard. But as part of the trade agreement that we recently reached with the United States, assuming that goes through, we'll extend our term of copyright, but what did you look into and what did you find when it comes to copyright term?

Rebecca Giblin: [20:41](#) So this particular paper, which is one that I worked on, there was a team of who data scientists and lawyers together. It was really looking at this thing called the under use hypothesis. So when there are arguments for term extension like there was in the U.S., to get them to life plus 70, one of the main arguments that's made is that those additional rights are necessary in order to persuade publishers to invest in ongoing availability of books. So the theory goes absent exclusive rights, then they're just not going to bother. Those works will go underused. They won't be exploited. Now there's been some terrific research in the U S context, particularly by Paul Heald that has tested that hypothesis and found there is actually, there's nothing in the data to support that. And what we've done with this roject is for the first time we've looked outside the US, we've done a

comparison, across the Australia and New Zealand and the US and Canada.

Rebecca Giblin: [21:41](#) And this is a drawing, springboarding from our, a larger project we've had looking into a lending in public libraries. And we'd previously found on a dataset of almost 100,000 books that those two pairs of countries, Australia, New Zealand and the US and Canada have virtually exactly the same books available to their libraries for e-lending. And so our starting point is, okay, they look really similar. So now what we did is we, , we use the Oxford companions to English literature from each of the countries. And we identified a set of 250 authors who had died within a particular period of time. And that put them in the public domain in New Zealand and Canada, in copyright in Australia and either in the public domain or under copyright in the US depending on whether the, the copyright had been extended there. And so then what we wanted to do here is we wanted to have a look and see what's the difference in it.

Rebecca Giblin: [22:37](#) We know we're already knowing that the baseline is that the availability is really similar. But does that change when we're looking at just these authors whose books are in the public domain in some places and under copyright elsewhere. And what we found particularly strongly for Canada is that there were far more books available where the books were in the public domain. We have lots more commercial publishers investing in making them available is, that's the other important thing. The dataset that we constructed only looked at availability from commercial publishers, not from volunteers. So this is directly testing the idea that commercial publishers weren't investing works except when they've got exclusive rights. And what we found very strongly is that yes, they will invest much more strongly where don't have exclusive rights. We find books that aren't available in the copyright countries that are available in the public domain countries.

Rebecca Giblin: [23:25](#) We also find that publishers are willing to compete over the same titles. So we see several editions of some of the books open competition, which is another thing the underused theory says that we won't see. But as I said, we also found that for 54% of those authors, zero books were available. And that's from those culturally valuable authors, still important enough to society that have been included in the most, in the most recent edition of that book, talking about them our most important literature. And for some of the others, including very well known authors, we were seeing a very small subset of their titles were available. And what that suggests to us is that those, those terms of even life plus 50 are outlasting any kind of

commercial interest in those work. And so that's where I think there's huge opportunity for countries like Canada and countries like New Zealand who are currently reviewing their copyright laws to think very critically about how they divide up those rights. And that's where again, reversion can come in. We have to have life plus 50 and now Canada has to have life plus 70. That's a reality of, of how it shaped up. But there's nothing in those treaties that say who has to own it. And there's nothing in the Berne Convention or the TRIPS agreement about ownership either.

Pres Reagan: [24:40](#)

We're here to sign into law, the Berne Convention Implementation Act of 1988. It will enable the United States to adhere to the Berne Convention for the protection of literary and artistic works.

Rebecca Giblin: [24:53](#)

So that opens possibilities for saying, okay, so maybe we, we have life plus 70, but we don't give it all as an up front lump payment like we used to. Maybe we pay it in installments and that opens up some really, really interesting thinking. As soon as you do that, you can start saying, well actually, maybe we would like our authors to register. If they want to actually get their works back. And if they don't, then that can be just administered by, , by, , public trustee kind of structure and take the revenues from that and use that to fund grants and fellowships and other things to directly promote authorship. And if you say, well actually hang on a minute, when you can't get people to register for their works cause that is contrary to Berne, which then we're locked into via TRIPS where we can actually, because countries are only obliged to follow the Berne and TRIPS minima for their own nationals.

Rebecca Giblin: [25:52](#)

Oh, sorry. For everyone else's nationals, they don't have to do it for their own nationals. And so this is what I call Berne's front door out. We actually have potential here for countries to depart from Berne minima in order to help authors out to directly support authorship. We've always had this idea in the past that of course the country won't depart from the treaty minima for their own authors because they're not going to treat them worse than they treat everybody else. But actually what we've, I think now reached a stage of technological and social evolution where that's all flipped and that if you want to treat your authors better, you have to depart from Berne minima for them. And so, you know, implementing things like a registration system, if authors want to reclaim their rights after 25 years and saying, well, if you're not that interested, if you're not interested enough to sign up on this website, you know, maybe we've done sign ups for 500 websites before.

- Rebecca Giblin: [26:46](#) If you don't hit that baseline level of still being interested in your work, then we will allow them to be exploited more broadly for the benefit of all authors. And this really draws on this idea of, I suppose Victor Hugo's domaine public payant that he talked about with the idea you would have a paid public domain. When Victor Hugo talked about that he was not worried about what he called heirs of the blood. He was worried about heirs of the spirit. He wanted that money to go to foster authors that came up, , in, in, in the footsteps of the ancients. And, and I think of this as the same thing, but just move forward a little bit and we don't wait to the public domain. The public domain is very far away, but after 25 years or so, we take all of this stuff that's out there and we say, anyone who's still interested in this stuff, raise your hand.
- Rebecca Giblin: [27:35](#) And you know what, you could raise your hand later on to say, , so you do get exploited by this public trustee with the money going into trust. If you later on said, well actually I am still interested in that, you could totally claim it back, but this is the kind of thinking that we could unlock if we start thinking really seriously about reversion and access and how we go about reclaiming some of that lost culture that is just, it has to be thrown away under current approaches. So it was my, I guess my tip for Canada is there's a real opportunity here. You've, you, you have this situation where you're obliged to go for life plus 70. We can see in the research and the evidence that's not gonna do any of the things that you've been told it's going to do and everyone knows it. It's not going to get you better access to some material. It's not going to help get authors paid, but there's an opportunity here to think about how those ownerships are divvied up to do a better thing for authors and a better thing for the public.
- Michael Geist: [28:28](#) One of the questions that comes up from time to time is, is there a cost to this, and it's quite clear there is a cost. Canadians have better access when it comes to the public domain in which you're effectively saying is that term extension may change that.
- Rebecca Giblin: [28:41](#) That's right, and I haven't talked about the economic cost, I've talked about the cultural cost, but we did do that analysis as well. We have a look at the prices that libraries get access to these books on in countries depending on whether they're in the public domain or copyright, and it's far, far higher in the copyright countries in a way that is absolutely not explained by the royalty that goes to the authors heirs it is. There is a huge gap between those two things. So we can see that in Canada there are commercial publishers very happily publishing these

works and presumably making a profit out of it. And in other countries they're pricing them at rates that just vary and and on license terms often make it unfeasible for libraries to add them to the collections at all.

CBC News: [29:26](#)

The last thing a librarian wants is to make noise. What the issue with ebooks is so pressing that libraries across North America are now kicking up a public stir. The pricing model and the terms and conditions aren't sustainable for public libraries. That's the librarian version of I'm mad as hell and not going to take it anymore. Check out the price difference on these ebooks. Lena Dunham's not that kind of girl would cost you \$16 the publisher charges the library \$85. Michael Connolly's, the burning room, your price, \$15 the library's 106 Donna Tartt's, the Goldfinch you pay 15 libraries pay 114 some publishers charge less but restrict the number of times. Ebooks can be read or they make the ebooks expire after a year and libraries have to buy them again at the same price.

Rebecca Giblin: [30:18](#)

Let me just explain a little bit about the kinds of licenses that public libraries have the choice of. There's something called one copy, one user, which is a perpetual license, so it lasts as long as you've got access to the platform, it can be borrowed by one user at a time for that, for that duration. But then there's different kinds of metered access licenses as well. And some of those are just limited by the number of checkout. So Harper Collins for example, very common for them to use 26 checkouts and then it's worn out and deleted from your collection.

Michael Geist: [30:47](#)

Trying to replicate a paper book.

Rebecca Giblin: [30:48](#)

Trying to replicate it. Exactly. Although I remember the librarians when this was first introduced going on youtube and finding the books in their collections have been lent out hundreds of times and still looked great, and to try and debunk that. But I actually, I think these, these licenses metered by checkouts only are actually terrific compared to the other kind of metered access, which has made it by time. And so these ones might say, , it after 12 months, it's deleted from your collection or after two years or 36 loans, whichever comes first. And I call these ones exploding licenses because they're going to be just be, going to explode, go from your collection, regardless of anyone's borrowed them at all. And they're particularly dangerous for those books that have lesser demand. When we talk about these public domain titles or the titles that are much older, they are in the public domain in some countries and under copyright. In others, they're the ones that have well and truly depreciated. They're likely to have much less demand than

the latest John Grisham or James Patterson book. And so when they're priced at the same price as a new release book and licensed on one of these exploding licenses, then that makes it, it makes it so that libraries cannot actually license that book and hold it in their collections.

Rebecca Giblin: [32:04](#) So there are real problems I think with the kinds of terms and pricing that have been imposed by publishers on older works. But that just speaks to the broader problem of what can happen where you've got exclusive rights over works for, you know, this amount of time, what that does in, in and to public access. And whether that's justifiable, if for any reason, and when we see that there are so many publishers happily competing with those same titles in the public domain jurisdictions, I think we can make a strong argument that it is not.

Michael Geist: [32:40](#) I wanted to close with one last piece. You are incredibly prolific. So there's so many different aspects of the research we could talk about. You wrote a piece called Fat Horses and Starving Sparrows, which actually was raised at the copyright review. My colleague Jeremy de Beer recommended it to the members of parliament as a piece to take a look at. You make the case that there's a lot of nonsense going on around some of the copyright debates on both sides.

Rebecca Giblin: [33:02](#) Am I allowed to say what I really called it?

Michael Geist: [33:05](#) On this podcast you can say what you like.

Rebecca Giblin: [33:08](#) So some of you might be familiar with the philosopher Harry Frankfurt. And he wrote a piece called on bullshit where he talks about the nature of bullshit and how to spot it. And obviously it's a pretty important part of, of public discourse now. And he talks about bullshit being where people will say things regardless of the truth of them in order to achieve their ultimate ends. And I think there's a lot of bullshit in copyright that we're facing here. And I talked about quite a lot of it in that piece which is available online if you want to Google fat horses and starving sparrows. And what I think is really dangerous is that all of this rhetoric that puts authors at the forefront of the copyright debate, but conflates the interest of authors and publishers, it doesn't help authors. We know who it helps, what we need to do if we're serious about actually making things better for authors.

Rebecca Giblin: [34:04](#) And we should be because they're important and the incomes are plummeting. And this is a new world and things that really tough then we need to separate out authors. We we can't put

up with this trickle down economics anymore. Right. That, you know, feed the horses enough oats and some will feed through to get to the sparrows. It's time for us to separate those interests out. Call bullshit when you hear people conflating authors and publishers interests because that's one of the great tricks that publishers managed to pull off from, from when they managed to get the Statute of Anne onwards. This idea that the author's interest is versus the user's interest and there's nobody else at play here. There is a third interest here. The cultural intermediaries interest, they have a valid interest as well. They need to get those incentives in order to get works out and available, but their interest is not the author's interest.

- Michael Geist: [34:59](#) Thank you so much. A really interesting conversation, I'm really glad you came on the podcast.
- Rebecca Giblin: [35:02](#) Thanks Michael. And could I just mention as well, authors interest is at authorsinterests.org if anyone wants to check out and the kind of work that we've been doing,
- Michael Geist: [35:14](#) Professor Giblin can be found on Twitter @RGIBLI. The author's interest project is online authorsinterest.org.
- Michael Geist: [35:30](#) That's the Law Bytes podcast for this week. If you have comments, suggestions, or other feedback right to lawbytes@pobox.com, that's lawbytes at p o box.com. Follow the podcast on Twitter @lawbytespod or Michael Geist @mgeiest. You can download the latest episodes from my website at michaelgeist.ca or subscribed via RSS at apple podcast, Google or Spotify. The Law Bytes podcast is produced by Gerardo Lebron Laboy. Music by the Laboy brothers Gerardo and Jose Lebron Laboy. Credit information for the clips featured in this podcast can be found in the show notes for this episode at michaelgeist.ca. I'm Michael Geist. Thanks for listening and see you next time.