

Getting the copyright  
balance right:  
how far the Copyright Act  
reflects the aspirations of  
the various interests

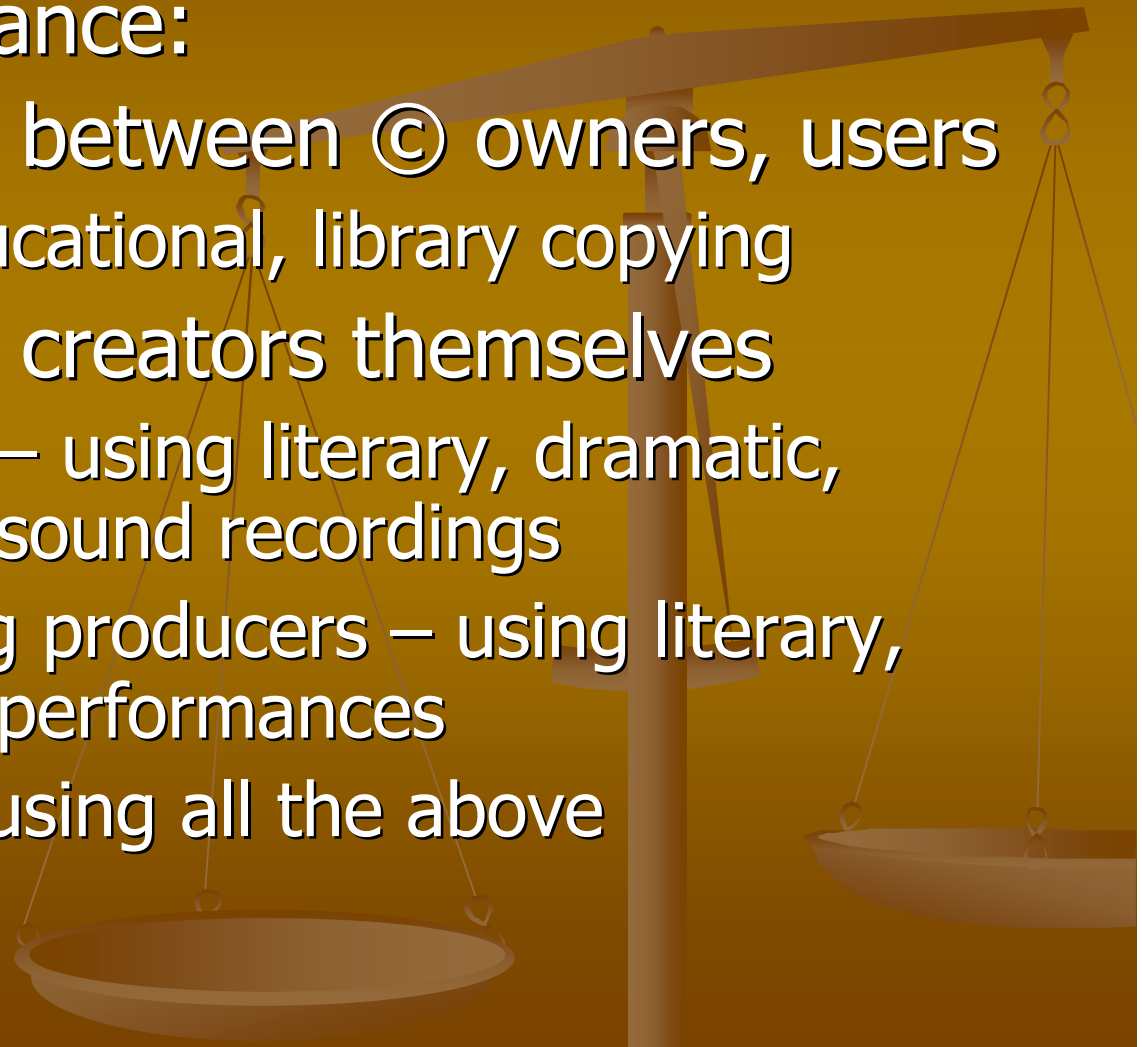
by  
Chris Creswell



# Getting the copyright balance right

## The copyright balance:

- Most commonly between © owners, users
  - Eg, private, educational, library copying
- Users can be © creators themselves
  - Film producers – using literary, dramatic, musical works, sound recordings
  - sound recording producers – using literary, musical works, performances
  - broadcasters - using all the above



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Reasons for amendments to C Act:

- New technology – creation/use of ©
- Multilateral/bilateral treaty obligations
- Reports of review committees –

Franki (2)

C Tribunal

CLRC (12)

PSA (3)

Parlt Ctees (several)

CCG

Simpson

Sherman & Bently

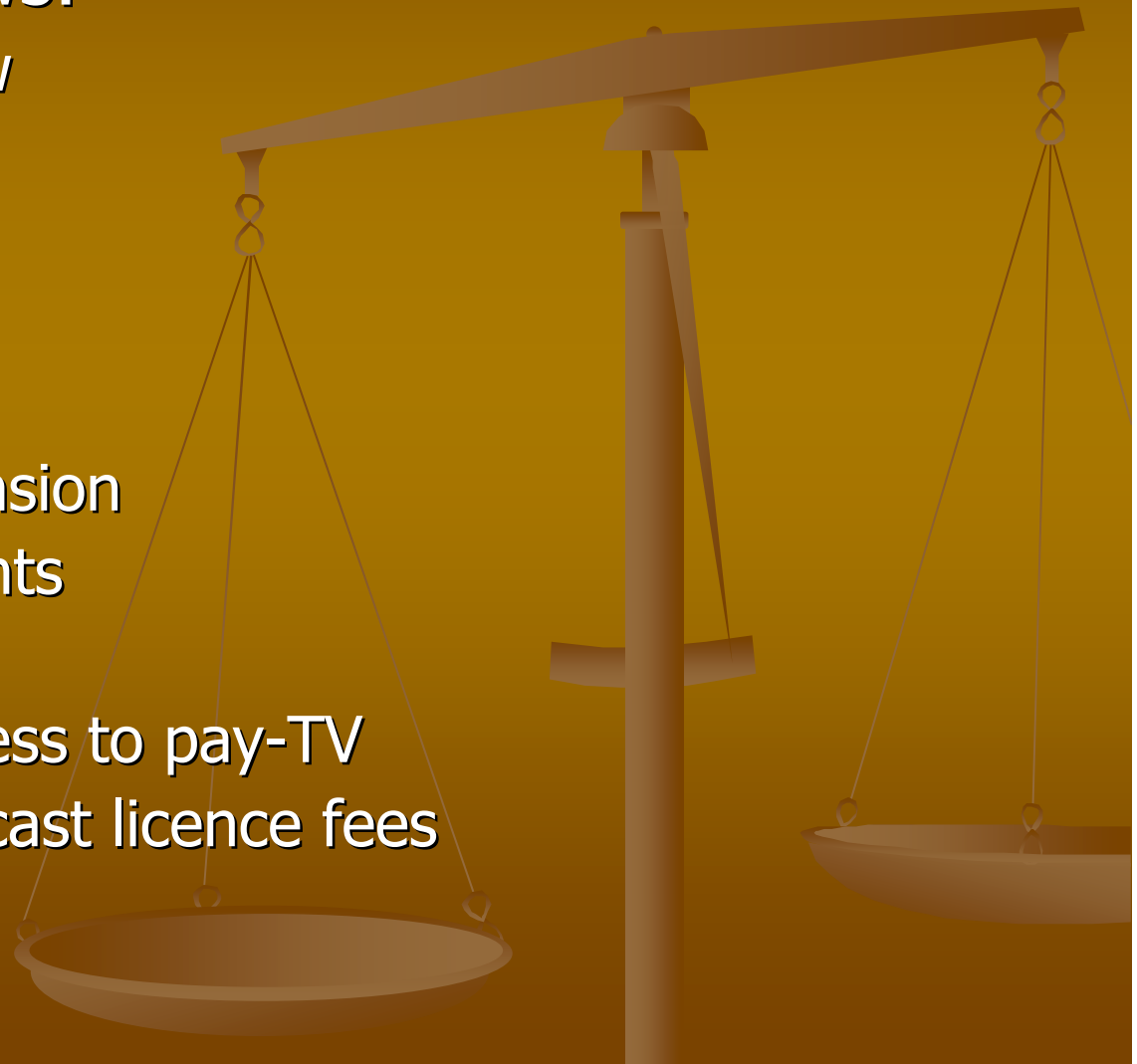
ALRC

Ergas

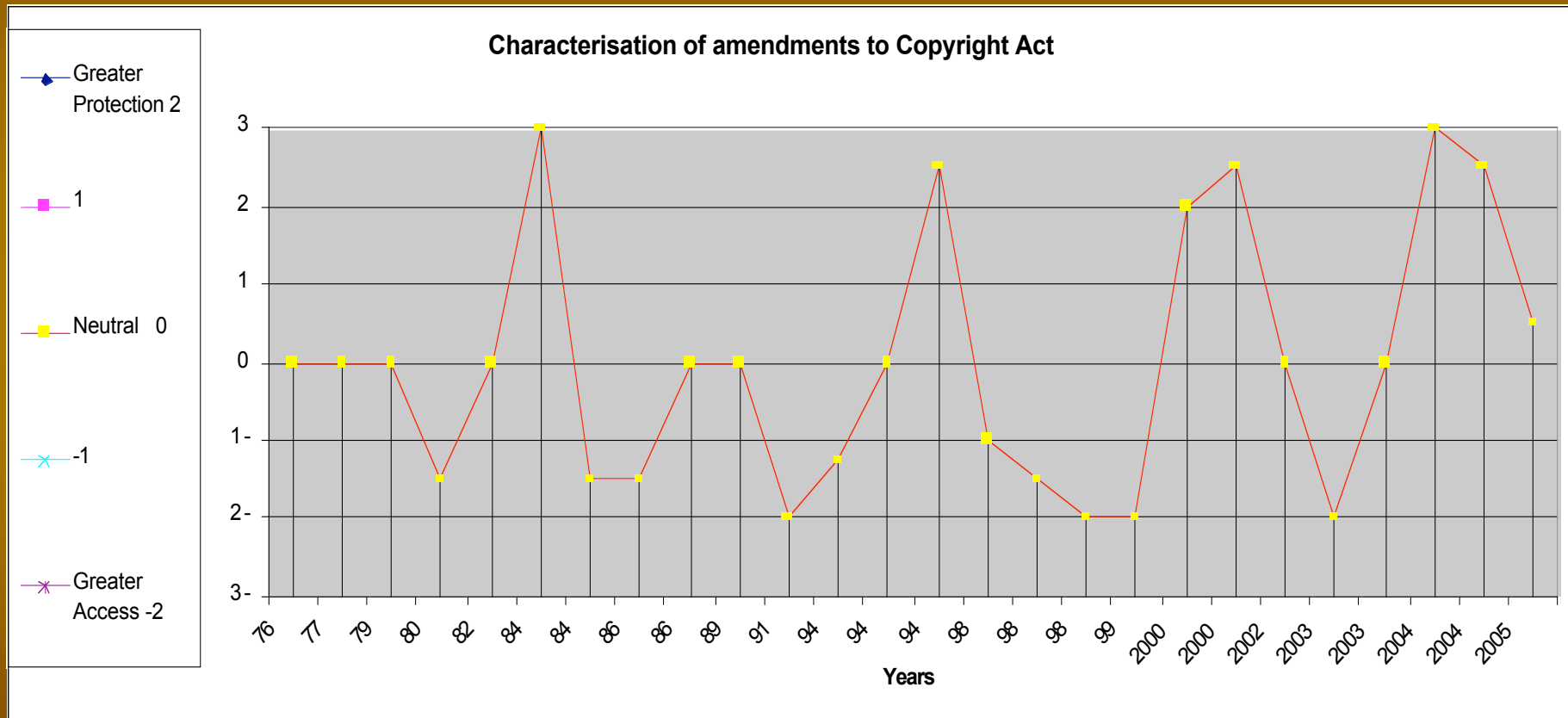
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## Departmental reviews:

- Audiovisual review
- Moral rights
- Indigenous ©
- Digital agenda (2)
- Performers' rights
- Photos term extension
- Film directors' rights
- Resale royalty
- Unauthorised access to pay-TV
- 1% cap on broadcast licence fees
- Fair dealing/use



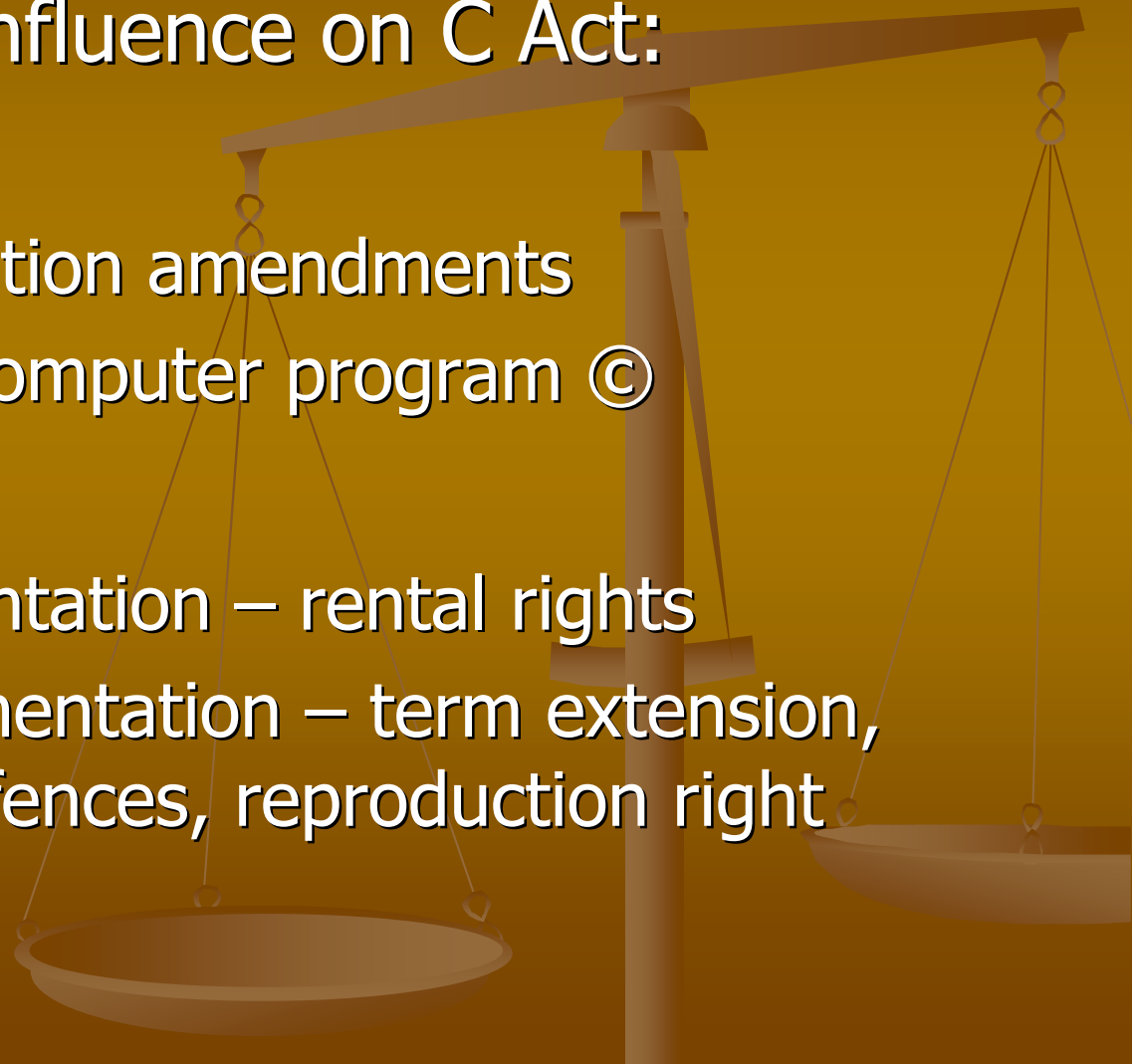
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# Getting the copyright balance right

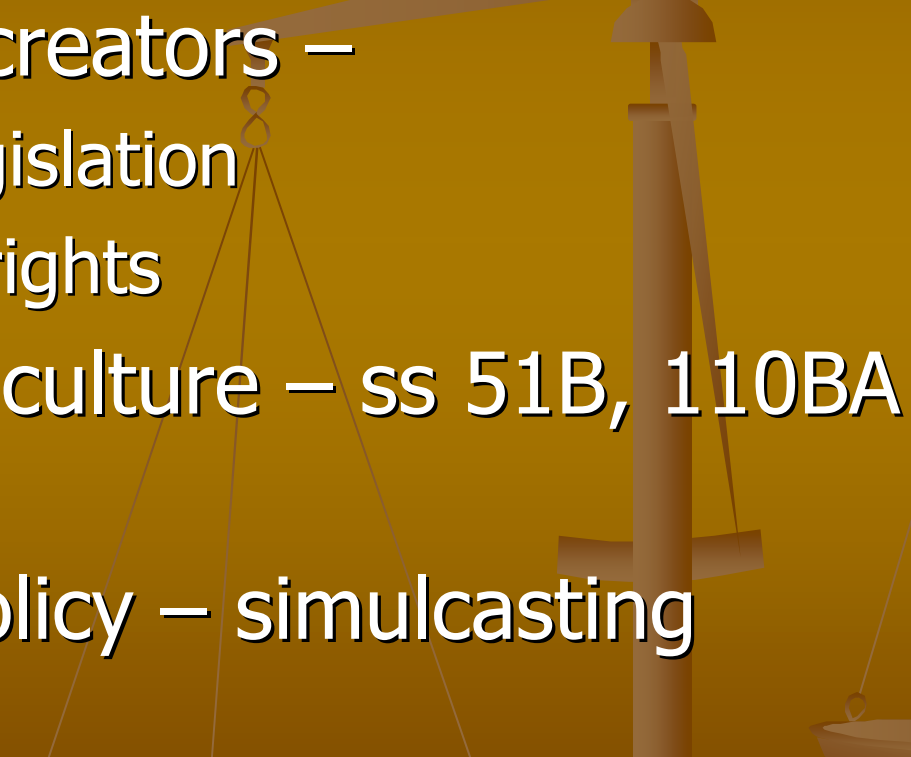
## Economic policy influence on C Act:

- Direct –
  - Parallel importation amendments
  - Exceptions to computer program ©
- Indirect –
  - TRIPs implementation – rental rights
  - AUSFTA implementation – term extension, extension of offences, reproduction right



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## Other influences on amendments of C Act:

- Recognition of creators –
    - moral rights legislation
    - Film directors' rights
  - Preservation of culture – ss 51B, 110BA exceptions
  - Broadcasting policy – simulcasting exceptions
- 

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Conclusions – amendments to Copyright Act during 1976-2006:

- Benefits shared equally – © owners, users
- International obligations extensive, complex – prescriptive of rights, some flexibility re exceptions & limitations
- Most amendments subject of reviews
- Influences – not only © owners, users but also economic, cultural concerns
- As result, Act grown over 4 times original size

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Thank you

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