

Contents

I. Copyright, the Freedom of Expression and the Right to Information: The Persisting Discord	15
A. Introduction	15
1. The Public Interest Exception to Copyright: A Brief Overview	16
2. The Thesis: Object, Scope and Methodology	18
B. The Discord in Context : A Case of Competing Interests	19
C. The Public Interest Dimension of Copyright	21
D. Seeking a Suitable Mechanism to Achieve the Right Balance	22
II. An Overview of the Conflict in the US and Europe	24
A. The United States	24
B. Europe	28
III. The US Approach to Resolving the Tension: The Fair Use Exception	32
A. The Fair Use Exception: A Brief Overview of its Rationale, Scope and Development	32
B. Seeking a Comparable Doctrine in Europe	34
IV. The Emerging Public Interest Exception to Copyright in Europe	37
A. England	37
B. France	47
C. Germany	52

V. Potential Impediments to the Introduction of a Public Interest Exception to Copyright	60
A. The EC Copyright Directive	60
1. Article 5 of the Copyright Directive	65
2. Overcoming the Bar under Recital 32	66
B. The Berne Convention and the Three-Step Test	72
1. The Three-Step Test	73
2. The Basic Rule: Limitations to relate to “certain” and “special” cases	76
IV. Conclusion	80
Abstract	83