



ACTRA

Bill C-32 Copyright Backgrounder

Canada's \$46 billion cultural industries can only thrive in the digital economy if intellectual property is protected. Unfortunately Bill C-32 as written will weaken current copyright and the collective licensing mechanisms that professional creators rely on to protect their work and make a living.

Bill C-32 eliminates millions of dollars currently being paid to artists by introducing broad exceptions and failing to extend the private copying regime or build on collective licensing. Instead of moving forward with legislation that gives Canadians access to creative content while making sure creators are fairly compensated, Bill C-32 takes us backwards by destroying the tools artists need to make a living and retain control over their work.

Modern and equitable copyright laws that protect creators' rights are a cornerstone of an economic development policy that values creative industries. Bill C-32 must be amended in order to encourage innovation and build Canada's digital economy.

REPRODUCTION FOR PRIVATE PURPOSES

PROBLEM: Bill C-32 legalizes format shifting without building on existing royalty systems. There has to be compensation attached to reproduction for private purposes so that income can continue to flow to artists regardless of how media develops.

Bill C-32 is not truly technologically neutral as it fails to extend the private copying levy to digital audio recorders. As a result of this the levy will cease to exist, eliminating millions of dollars in revenue artists currently rely on to innovate and create new content.

SOLUTION: Extend the private copying levy to digital audio recorders and clarify the definition of private purposes in order to limit the uses allowed.

USER-GENERATED CONTENT (UGC)

PROBLEM: Bill C-32 makes it legal for Canadians to remix creative content into new works for non-commercial purposes. This 'Youtube' or 'mash-up' provision is too broad and as written will trample on creators' economic and moral rights.

SOLUTION: No country in the world has a law like this – let's make sure Canada doesn't either by removing the UGC provision from the bill.

FAIR DEALING EXPANSION

PROBLEM: The expansion of fair dealing to include education and new exceptions for educational purposes subsidizes education at the expense of creators. Copyright material should not be free simply because it is used in schools. Educational institutions pay for desks, computers and teachers' salaries, why would they not pay for content valuable enough to use in teaching? Schools are able to access the materials they need today through a collective licensing system that costs less than 1% of total education spending. That's a small price to pay to support publishers and writers to ensure that our kids have Canadian-written text books.

SOLUTION: Do not add a blanket exemption for education to s.29 of the *Act*, and ensure that exceptions don't prejudice the interests of the creators and provide for fair compensation for the use of their works.

STATUTORY DAMAGES

PROBLEM: Unauthorized file sharing, downloading and streaming is online theft which robs creators and kills jobs in the creative industries. Bill C-32 exempts copyright infringement enablers, such as BitTorrent sites whose primary purpose is to enable acts of copyright infringement, from statutory damages. Illegal file sharing sites facilitate millions of dollars worth of theft – we need to fix Bill C-32 so we have the effective tools to shut these sites down.

SOLUTION: Do not add proposed exemption 38.1(6)(d) to the *Act*.

INTERNET SERVICE PROVIDER (ISP) LIABILITY

PROBLEM: The bill provides for a notice-and-notice regime under which ISPs would be obligated to send a notice to potential copyright infringers after receiving a notice of alleged infringement. ISPs would also be required to retain information identifying the alleged infringer for a prescribed period of time. Telling someone they are doing something wrong over and over again has little impact if there are no consequences.

SOLUTION: Put greater responsibility on ISPs for their role in copyright infringement such as a graduated response that relies on educating alleged infringers and the application of increasingly stringent measures.

BROADCAST MECHANICAL

PROBLEM: Radio stations pay a collective licence that gives them the right to make copies of recorded music for broadcast purposes. Bill C-32 kills this licence, once again taking money out of creators' pockets. Broadcasters make millions in profits from playing music, why should they get a free ride?

SOLUTION: Don't eliminate 30.9(6) of the *Copyright Act*.

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