



October 26, 2004

««AddressBlock»»

««GreetingLine»»

Re: Reform of Canada's Copyright Act

On behalf of the Canadian Internet Policy and Public Interest Clinic (CIPPIC) and the Public Interest Advocacy Centre (PIAC), we would like to extend our congratulations on your appointment to the House of Commons Standing Committee on Canadian Heritage. We would also like to take this opportunity to present you with our joint response to the *Interim Report on Copyright Reform*, which we provided to the previous Standing Committee on Canadian Heritage in June of this year (see attached).

CIPPIC and PIAC are organizations with public interest mandates. Both organizations participated in the Committee hearings that led to the Interim Report issued by Standing Committee on Canadian Heritage. Our respective organizations have become active in the copyright reform issue because we feel that the public debate on copyright reform has neither reflected the fullness of the issues involved nor the interests of all the parties affected by copyright reform, both creators and users. The result has been a narrowing of both the public and media perception of who is affected by copyright reform and what issues are stake.

CIPPIC and PIAC have a much more nuanced interest in copyright reform than simply expanding user rights. We understand and support the need for creator's rights. But we do not agree with the narrow proposition that creators' interests equal the interests of copyright holders and that both interests are distinct from those of users. In reality, creators are also users and therefore have a strong interest in ensuring public access to and use of copyrighted materials. We believe strongly in the need for copyright laws that strike an appropriate balance between access and protection, such that the goal of copyright law – to promote innovation in the arts and science – is achieved.

Current proposals for ever-increasing copyright protection are coming not from individual creators but rather from industries that have built up around distribution models that predate the Internet. Such industries have always resisted technological change, but have also eventually adapted (e.g., to the phonogram, radio, and the VCR). Copyright law should not be used to protect outdated business models or ailing industries; rather, it should focus on its ultimate goal: giving creators the incentive and ability to innovate.

The advent of the personal computer and the growth of the Internet have resulted in average citizens being affected by copyright in a very direct way, as users but also potentially as creators of copyrighted material. Their views about copyright must be taken into account. Some of these individuals are software creators and developers who are very concerned about the effect of digital copyright controls, and the legal protection thereof, on their ability to continue to innovate. Others are authors or potential authors who benefit from a broad and vibrant public domain of works on which they can build.

Those in the educational community (who are creators as well as users) have expressed deep concern with the direction expressed in the Interim Report, which would tip the balance in favour of copyright holders at the expense of encouragement of and access to a vital public domain of information on the Internet (see http://www.aucc.ca/publications/media/2004/09_22_e.html).

Librarians – the custodians of our documented knowledge – have also objected to the Interim Report and have warned that increasing legal as well as technological protections could have severe implications for our access to knowledge in the future (see http://www.carl-abrc.ca/frames_index.htm and <http://www.copyright.gov/1201/comments/reply/034dillon.pdf>).

Business leaders and educators from the USA have recommended that "because quick legislative or regulatory solutions for the problem of digital copyright protection pose risks to innovation and economic growth and are likely to have unintended consequences in a period of rapid technological change, we should move slowly" and "should not turn to law or regulation to protect any particular business model" (see http://www.ced.org/docs/report/report_dcc.pdf).

Copyright law experts not tied to particular stakeholder groups have expressed great concern about the trend in copyright law toward ever-greater protectionism and away from the balance with access and user rights so necessary to achieving its goal (see, for example, the Geneva Declaration signed by hundreds of concerned individuals and organizations: <http://www.cptech.org/ip/wipo/futureofwipodeclaration.pdf>).

A coalition of various industry stakeholders, public interest groups and individuals in Canada has called for a very different approach to copyright law reform than that suggested by the Heritage Committee last spring (see <http://www.ccta.com/CMFiles/DetailsDocuments/09-15c58RPN-972004-812.pdf>).

The issues at stake in the copyright reform process are much broader and of wider significance for Canada than the public debate to this point has suggested. The copyright reforms being considered by the government are not solely or even primarily about the conditions under which one should be able to download or upload copyrighted works from the Internet. The real copyright issue underlying the reform process is about how we are to understand and utilize copyright in an era where information and the technological means to facilitate it will be at the forefront of our culture and our economy.

We need a copyright regime that not only provides creators with financial incentives to create, but that also facilitates access to information and innovative uses of that information in the digital era by creators and others, such that we can all continue to benefit from strong and vibrant

cultural and scientific communities in this country. We hope that the next round of debate on copyright reform will reflect the broad public interest in this subject-matter and the important implications of proposed reforms for our society and economy.

We appreciate your time taken to read the attached response and would be pleased to discuss or elaborate on anything in the document.

Sincerely,

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Attach.

cc: Members of the Heritage Committee