

From: Brian Fraser
Sent: January 20, 2011 1:03 AM
To: ~Legislative Committee on Bill C-32/Comite législatif chargé du
Subject: Bill C32 Reform

Hello,

My name is Brian Fraser. I have my Ph.D in computing science, and am a lecturer at Simon Fraser University. I am writing to express my view that balance needs to be restored to Bill C32.

It is crucial that the bill be revised to prevent digital locks from infringing on existing consumer rights, or the new rights proposed by the bill. Consumers should be legally entitled to circumvent digital locks for non-infringing purposes. It would be a huge step backwards to allow content distributors to impose legally binding restrictions on their content, using digital locks, which prevent the legitimate consumer from using the legally purchased content. Such technological protection measures (TPMs) serve only to inhibit a customer's ability to use the content they purchase, and to lock the consumer into the continued use of one vendor's technology. This does not help content producers, and it does not help consumers.

Consider, for example, a consumer who purchases all their music digitally through a provider which uses TPMs to prevent the content from being accessed using any competitor's devices. This consumer would be locked-in with the one technology even if there were compelling reasons to change. To change, the customer would have to re-buy all their music just so they can play it on another device, or break the law. This is analogous to having to buy a completely new set of clothes when you replace your laundry machine! It is absurd to give content distributors this level of legal power over consumers for no reason other than to enhance their market control and therefore profits.

Furthermore, Canadians must have the right to acquire and use tools which assist them in bypass digital locks for non-infringing purposes. It is vacuous for Canadians to have certain rights with the law prevents them from exercising. For example, the new bill proposes rights to break TPMs for enabling access to material for visually challenged people. However, it places the constraint that such circumvention will not "unduly impair the technological measure". This is patently absurd because circumventing the lock is precisely to gain access to the material, thus impairing the technological measure. Enshrining digital locks in law does not address the fundamental question of who has which rights.

One clear example of this is with respect to DVDs. The region code on DVDs is strictly a way to segment the global market for higher profits; it has nothing to do with legally obtained content. DVDs are also relevant to the discussion of digital locks for Linux systems. Laws preventing the circumvention of digital locks would prevent

non-approved systems, such as a Linux DVD player, from legally playing back a DVD because to play the movie, it must first decode it, which must get around the digital lock. I feel that copyright laws should not prevent consumers from using open-source products.

Another other area of the bill which needs attention is the self-destruct requirements for distance education material and for digital library loans. It would be a great imposition, as an instructor, to have to ensure that all my course content self-destructs 30 days after the end of a course. This would seriously limit my ability to use material because I would be forced into using proprietary technology whose only purpose is to destroy content. This is a problem because mainstream computer program are built with the principle of compatibility. Instructors would be locked in to a handful of poorly supported formats whose only purpose is to limit access, and destroy content! It's like having to sell milk using heated vans specially designed to destroy the milk! Such a restriction would limit the ability for educators to deliver courses. Education should be about sharing knowledge, not paying companies for tools to destroy content.

I feel the legislation as it stands has not found the correct balance on user verses consumer/publisher rights. I would refer the committee to writings of Michael Geist whose recommendations I wholeheartedly support.

I appreciate your time in considering my opinions, and bringing balance back to the bill.

Brian Fraser.

Dr. Brian P. Fraser