

Carlen Lavigne

January 30, 2011  
Legislative Committee on Bill C-32  
Sixth Floor, 131 Queen St.  
House of Commons  
Ottawa, ON  
K1A 0A6

RE: DIGITAL LOCKS AND BILL C-32

There are a lot of things to like about Bill C-32, the proposed new Canadian copyright legislation. I am in favour of the notice + notice provisions, as well as the fair use exceptions for consumer needs such as format shifting and education. However, I cannot support the bill as long as it contains its current digital lock provisions.

I am an educator, a content creator, and a consumer. I teach communications studies, including Canadian copyright regulation, at Red Deer College in Alberta. I am familiar with both sides of the copyright debate; as a communications researcher, I publish copyrighted articles in books and journals. I am also a published illustrator. Conversely, I regularly access and edit multiple forms of media (DVDs, CDs, books, journals, web sites, online videos, etc.) for my lectures, my research, and my personal home use.

The fair use exceptions currently in C-32 show that the government is aware of Canadians' desires to make backups of material, to move material from one medium to another, and to use material for educational purposes. But if digital locks trump all of these provisions – if Canadian users have “rights” only as long as media distributors allow them – then the provisions are worth nothing; corporate power dictates what Canadians can and cannot do with the content they purchase.

I am not an advocate of piracy. There is a clear difference between breaking a digital lock to spread or sell pirated material, and breaking a digital lock to access content for personal or educational use. Digital locks are currently pervasive on media such as DVDs and ebooks; without stronger fair use provisions in C-32, I would be breaking the law if I:

- extracted clips from DVDs for my classroom lectures or conference presentations
- overrode a region code on a DVD for use in my research, or for my classroom lectures
- backed up locked material to my hard drive
- transferred locked material (i.e. films, ebooks) from one media player to another
- unlocked an ebook in order to extract or add notes and references for my research
- shifted locked material from an outdated file to a newer format (to make sure the material remained accessible with ever-changing technologies)
- archived a streaming video (e.g. from Youtube) to my hard drive, in order to preserve research materials or to play in classrooms with undependable internet access
- converted files from Blu-ray discs to show in classrooms without Blu-ray players

I have heard the argument – advanced particularly by the Honourable James Moore – that “market forces” will ensure that consumers who want material without digital locks will be able to obtain it. I am not convinced. As an educator, I want to choose lecture materials based on what will be best for my students – not on what corporations have seen fit to issue TCM-free. As a consumer, I mistrust the market monopolies enjoyed by media conglomerates, and I seriously doubt they have my best interests at heart. “Digital locks are not an issue because corporations won't use them” is not a valid argument; why are corporations being given the power to override consumer rights at all?

Finally, as a content creator, I want my readers to be able to back up, shift, and otherwise use my materials fairly. The publishing market is highly competitive; I do not often have the luxury of dictating terms to a publisher, which means if I want to publish – which is a requirement of my career – I personally have little to no control over whether or not my work is digitally locked, nor does C-32 allow me to permit any readers to unlock it. Distributors are protecting their own interests, not mine, and C-32 does not represent me.

The solution is simple: change C-32 so that the fair use provisions override the digital lock provisions. It should not be a crime to break a digital lock for otherwise legal purposes. Consumer rights should be more important than corporate interests. This would not hamper the fight against piracy – content producers could still prosecute those who break digital locks for illicit purposes. But fair use rights must trump digital locks in order for C-32 to effectively balance the needs of producers and consumers. Thank you for working hard to produce clear and balanced copyright legislation; I strongly hope that you will take these arguments into consideration.

Sincerely,

Carlen Lavigne