

From: Michael Lawton
Sent: January 17, 2011 3:57 PM
To: ~Legislative Committee on Bill C-32/Comite législatif chargé du
Cc: Rajotte, James - M.P.
Subject: Bill C-32

To the members of the Bill C-32 Legislative Committee;

As per your news release: "STUDY OF BILL C-32, AN ACT TO AMEND THE COPYRIGHT ACT" of December 06, 2010, I would like to add my support to the advocacy of maintaining a fair approach to copyright that does not result in digital locks trumping consumer rights and that advances fair dealing for the benefit of creators, consumers, education, and business.

I feel that Dr. Michael Geist has done an acceptable job of defining certain beliefs about Bill C-32 that I share, and so in an effort to maintain clarity I will quote his words as they match my opinions:

- I agree that Bill C-32 "...must retain legal protection for digital locks...", but must also "...ensure that digital locks do not trump all other copyright rights by preserving fair dealing and consumer rights." I believe that Bill C-32 must clarify "...that **it is only a violation to circumvent a digital lock where the underlying purpose is to infringe copyright**. This approach - which has been adopted by countries such as New Zealand and Switzerland - would ensure that the law could be used to target clear cases of commercial piracy but that individual consumer and user rights are preserved."
(emphasis mine)
- With regards to defining "Fair Dealing", the Copyright Act should codify the six-part fairness text as identified by The Supreme Court of Canada:
 - "The Supreme Court of Canada has identified six non-exhaustive factors to assist a court's fairness inquiry: (1) the purpose of the dealing; (2) the character of the dealing; (3) the amount of the dealing; (4) alternatives to the dealing; (5) the nature of the work; and (6) the effect of the dealing on the work."

I strongly believe that these two issues form the heart of what both the proponents of Bill C-32 believe needs to be addressed, and of which opponents of the Bill are most concerned with the consequences. I strongly believe that no one in this committee or administration wishes to see the abuse of copyright that takes place when unquestionably fair, non-damaging (or even beneficial) use of a piece of work is prevented, punished, or even "chilled" due to a rights-holder taking advantage of poorly-written legislation. All that needs to happen to guarantee that the rights of Canadian users and institutions are held in priority is to enshrine "Fair Dealing" as the defining concept behind any claims of wrong-doing, regardless of the method or means of the wrong-doing.

Please listen to Canadians. Thank you.

/Michael Lawton