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To: ~Legislative Committee on Bill C-32/Comite législatif chargé du projet de loi C-32
Subject: Comments on Bill C-32

I am affected by Canada's copyright laws on a daily basis. I work in the technology field and use reference material, and software that is protected by copyright. I also create and post material to the Internet that is protected by copyright. I also read books, watch TV and listen to podcasts in my personal life, all of this material is protected by copyright. Current laws do not allow me to consume the material in the format that works best for me. I prefer to use my laptop and cell phone to view most of the content I consume. This includes television. Like most Canadians, I am busy and want to consume content when and where it suits me best. The addition of time and format shifting for consumers is a welcome change to copyright law and needs to remain in Bill C-32.

The protections for DRM should not be as strict as they are in Bill C-32. While I believe that DRM should not have any protection under the law I do understand that we have obligations under international treaties to offer some protections to them. The extremely narrow exceptions for breaking DRM should be changed. If I need to shift a book or video or audio recording for my personal use I should have full rights to break the DRM on the media. I should also be able to break DRM in order to ensure my right to privacy is being protected and for security research. DRM breaking tools must also be allowed and should have no restrictions placed on them. Only if I break DRM for a an infringing purpose should there be a punishment.

Fair dealing should be expanded and not be an exhaustive list but should include "such as" wording. Fair dealing should include rights such as reproduction for parody, reporting, time shifting, personal education and criticism. Copyright law should not be a protection mechanism for censorship by the government, individuals or corporations. If a piece of a copyrighted work is reproduced to criticize or be used in the process of whistle blowing, it should not be copyright law that is used to suppress the information. Fair dealing should cover all of these. Educational exceptions must also not include the harsh DRM restrictions that it currently has. Adding DRM to lessons plans will cause enormous cost increases to the already cash strapped school systems. They will either be required to purchase DRM implementations or reasearch, create and support their own. The costs involved in supporting instructors and students in creating and accessing their DRM encumbered material will be extensive. This requirment will also add to the cost of some students since support options for all computer operating systems will likely be limited and some of the students may be required to replace their existing computers or operating systems in order to access their course material. The same needs to go for the inter-library loans. Libraries do not have the funds to support such extnesive requirements.

The current use of collectives is not the best option. While Access Copyright does serve a purpose they do not have access to as much material as they claim to have and they have recently been shown to offer licenses to material which is in the public domain. If we are to continue to utilize collectives for material for educational institutions they must be held accountable when they misrepresent what they are eligible to offer licenses for and charge for content that is already free.

The creativity that goes on in Canada happens in spite of current copyright protections and not because of them. Copyright terms should be made shorter. People make use of existing ideas all the time to create new and wonderful content. Walt Disney, one of the biggest proponents of lengthening copyright laws would not be where it is today if it were not for material in the public domain. They have made countless adaptations of classic novels such as Victor Hugo's *The Hunchback of Notre Dame*, Charles Dickens' *A Christmas Carol* and the classic tale of *Cinderella* which may actually date back as far as the first century BC. Without these remakes of classic stories, Disney would have had to be a lot more creative to become as large as they are. Copyrighted material needs to enter the public domain sooner, not be protected for longer. If we protect DRM, as it is in Bill C-32, we will stifle creativity and possibly lose material that is classic Canadian content. If the DRM holder does not release material before it enters into the public domain and DRM is protected the content could be lost forever.

If Canada makes it easier to use copyrighted material we will have a chance to foster competition and investment in Canada. The current copyright laws protect the incumbent with such force that it is difficult for new competition to enter the market and offer truly innovative products. When the incumbent has these protections they have no need to innovate because they have a lock on the consumers. For example, telecommunications companies should not be able to claim copyright as a way to lock phones to their network. If I want to unlock a cellular phone that I purchase and take it to another carrier or install additional software on it, I should not have copyright law stand in the way of that. The iPhone is currently locked to Rogers and is also locked by Apple so only Apple approved applications can be installed. If I bought the phone I should be able to install any applications I choose. Companies should not be able to use this type of law to prevent people from hacking the device they purchased to do things that were not intended by the manufacturer. If I can make it do something more useful or interesting, let me. Some companies have realized this and are seeing huge rewards from new uses they never saw possible or did not have funds to develop. They let the community develop them and have more sales as a result. Other companies intimidate their customers to maintain control of a device they no longer own. These same protections are also being used to limit consumers ability to repair devices they have purchased.

We need to offer more options for fair dealing and punish copyright holders who try to stifle competition through intimidation and by misleading consumers of their rights. An example of this misleading would be the CFL broadcasts on TSN. The copyright notice goes so far as to prohibit accounts of the football game without the express permission of the CFL. Does this mean that I can't tell my co-worker about what I saw when watching the game? Can I not write an article on a web site describing the game I watched or even a portion of the game? How is an account of a football game or even a portion of it a reproduction of the game? This should be covered under fair dealing, yet the CFL tells me that I can't do this, which unless I completely misunderstand fair dealing, I can. This type of misrepresentation should result in fines for abuse of copyright.

Punishments also need to be in place for people who issue notices to ISP's when they hold no copyright on the material they are sending the notice about. This type of abuse has happened in the United States where the owner of the copyright was not the one who asked to have it taken down. In fact the copyright owner was the person who was hosting the material. I feel that this does need to go the other way as well however. If you are infringing and refuse to take down the material then the copyright holder should have access to remuneration. Bill C-32 allows for this however it still allows for the possibility of the punishment to far exceed the actual damages caused by an infringement and this should not be. Damages should be in line with the crime. If the infringement is for commercial, large scale gain, such as DVD pirating operations, there can be large awards. Otherwise damages should be limited if the infringement was small scale and there is a good faith belief that it was non-infringing.

Canada needs to abolish the levy currently placed on blank media. I have used approximately 5% of the CD's that I have purchased to copy my music to them. Why am I paying musicians for music I have not pirated? I use CD's and DVD's to back up the content I have created such as photos and documents and make bootable linux CD's, not to pirate music.

Copyright law should also no longer extend to Crown Copyright. This concept should be abolished. Canadian taxpayers have paid for the creation of the content and therefore should have free access to use and reproduce it for their needs.

Ryan Nicolson