

ATTN: Michelle Tittley, Clerk of the Legislative Committee on Bill C-32

Ms. Tittley,

I am a concerned Canadian citizen writing to express my concerns about the recently tabled Bill C-32 (Copyright Modernization Act).

First, let me state that I recognize the need to modernize Canada's copyright laws with regard to the current state of technology. I also agree that the rights of content creators should be protected and that Bill C-32 does a lot to address these issues.

However, it is important to balance the rights of the intellectual property right holders with the rights of the public; in particular, the property rights of the consumer who has purchased the tangible or intangible property as well as the "fair dealing" rights.

Unfortunately, this is where Bill C-32 seriously fails.

Bill C-32 contains provisions for "digital locks" or "Technological Protection Measures".

According to its wording, the bill criminalizes circumvention of such protection measures for any purpose whatsoever, even when needed to exercise the fair dealing rights.

It means that the existing fair dealing rights (including research, private study, news reporting, criticism, and review) and the proposed new rights (parody, satire, education, time shifting, format shifting, backup copies) will effectively cease to function so long as the rights holder places a digital lock on their content or device.

It also means that right holders will now be able to control not only the distribution of the content but also how it is used -- which is unprecedented and goes far beyond the purpose of copyright.

And finally, the proposed circumvention prohibition will persist even after the expiration of the copyright, effectively making the content perpetually locked.

For relevant examples, please see sections 29.22, 29.23, 29.24, 30.04, etc. of the bill that deal with fair dealing rights; as well as section 41 that deals with digital locks.

Please note that the last time this approach was suggested, in the failed Bill C-61, there was a significant public outcry.

That said, there is a way of amending the bill to provide a reasonable compromise:

Allow circumvention for LAWFUL PURPOSES (such as fair dealing) while explicitly prohibiting it for the purposes of copyright infringement.

Given such an amendment, I feel that the bill could strike a balance between protecting the rights of consumers the the interests of the intellectual property right holders. Without it, the bill reads like it was drafted by the American content industry with the explicit purpose of trampling consumer rights.

Please feel free to contact me at your convenience.  
I will be happy to offer any assistance that I can provide regarding this matter or others.

Best regards,

Alex Oren.