

To whom it may concern,

I am writing you to provide comments on the study of Bill C-32 as described in the press release found here:

<http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4850539&Language=E&Mode=1&Parl=40&Ses=3>

On June 2, 2010 the Government of Canada undertook an important step towards updating Canada's copyright regime by introducing Bill C-32: the Copyright Modernization Act. On the surface, Bill C-32 appears more flexible than the previous attempts at copyright reform. However, this bill's significant flaw is the inclusion of strict, anti-circumvention provisions. As a consumer, I am both concerned and disheartened by how easily consumer rights are taken away by the overriding protection for digital locks included in this legislation.

I strongly disagree with Bill C-32's provisions relating to the circumvention of digital locks. These provisions make it illegal to circumvent or bypass any type of digital rights management (DRM) or technological protection measure (TPM) even if the underlying purpose for the circumvention is lawful or otherwise non-infringing. Furthermore, Bill C-32 goes beyond compliancy with the WIPO Internet treaties by including an extremely overbroad prohibition on the development and manufacturing of circumvention devices and technologies, commercial trade of circumvention devices and technologies, including the possession or utilization of any device or technology that can circumvent a TPM or DRM.

In a slightly more personal perspective, I'd like to share a quote I read recently: "If companies chose to only do things that regulations allowed there would never be bold innovation." That's from the maker of the Yike bike - a truly radical idea that has broken from some conventions. Is that radical extremism? What if a company pulled apart a standard method of transmitting files over networks to create a better transmit protocol? Those that pioneered the original protocol may not be happy. What if that protocol now improves the speed and security of transmitting digital medical images from an archive repository to a Radiologists workstation? Many of the technologies that I work with in Healthcare IT "borrow" from other technologies. Frankly, I like that kind of radical extremism. Innovation is a game of constant marginal improvement with periodic moments of significant breakthrough.

This blanket protection for digital locks overrides the rights of Canadian consumers and creators, including any newly granted rights provided by Bill C-32. The anti-circumvention provisions provide corporate copyright owners and distributors a powerful set of tools that can be utilized to exercise absolute control over the way Canadians interact with media and technology and will undermine future innovations. The exceptions that do exist fail to address the wide range of legitimate reasons a consumer or creator might circumvent a digital lock.

Rather than expanding and simplifying Canadians' limited right to the reasonable use of copyrighted works, Bill C-32 opts for a closed and narrow approach. A more open-ended definition of fair dealing rather than a rigid list of exceptions, the majority of which will not be practically available to Canadians, would better foster innovation, creativity, and competition in Canada.

I support the notice-and-notice approach to the liability of Internet intermediaries taken by Bill C-32. This approach offers the best balance between the protection of intellectual property rights and the fundamental rights of individual and academic expression. I also support the changes to statutory damages as outlined by Bill C-32.

Fortunately, there remains time and opportunity for this government, regardless of party affiliation, to amend this legislation to ensure that the rights, values and interests of all Canadians are reflected in a truly Canadian-to-the-core, balanced approach to copyright reform. The changes could be small too - an exception could allow for the circumvention of TPM and DRM to be permitted for non-infringing uses. Or, allow the original content creators - the artists, musicians and authors - to authorize the removal of digital locks to allow access, and to use, their copyrighted works. Regardless of the final result, it is critical that

the bill allow for periodic review and modification. Technology will change, and any legislation that has such a significant effect on technological innovation must be able to evolve with it.

Thank you very much for your time, I do appreciate it very much.

Regards,

Don Walsh