



D R A F T

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June 17, 2008

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The Honourable Josée Verner
Minister of Canadian Heritage,
Status of Women and Official Languages
and Minister for La Francophonie
House of Commons
Parliament Buildings
Ottawa, ON K1A 0A6

The Honourable Jim Prentice
Minister of Industry
House of Commons
Parliament Buildings
Ottawa, ON K1A 0A6

Dear Honourable Ministers:

As the Chair of the Toronto Public Library Board, I want to take this opportunity to share with you the concerns of the Library Board regarding any new copyright legislation. The Board, at its meeting on June 16, 2008, endorsed the contents of this letter.

The Toronto Public Library is the largest and busiest library system in North America. Libraries and librarians speak on behalf of their users: millions of students, educators, scholars, researchers, lifelong learners, recreational readers, from children to seniors. Library users **are** the Canadian public: they are not members of a "special interest group" when it comes to copyright.

The most important change in copyright in recent years both for libraries and for all Canadians has been the 2004 Supreme Court of Canada judgment in *CCH Canada Ltd. v. The Law Society of Upper Canada*. Should the government introduce amendments to the *Copyright Act*, change must reflect the broad interpretation of fair dealing outlined in this judgment and ensure that users' rights are well-protected.

The Toronto Public Library Board has four specific points to raise:

First, we believe that Technological Protection Measures (TPMs) present significant barriers to access and permitted uses for all Canadians, but particularly for the millions of Canadians who are print-disabled. The right to by-pass TPMs for non-infringing purposes must be protected. Should there be new copyright legislation, it needs to be carefully crafted so that it does not punish non-infringing behaviour nor does it ban devices that may be used for legal purposes such as allowing libraries to preserve and maintain digital collections; allowing Canadians to exercise fair dealing; and allowing access to protected material after its copyright expires. Individuals and institutions that serve Canadians must have the authority to exercise their rights to access intellectual property and reproduce it for

Library Board

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legitimate, legal purposes. The Government must assure all Canadians that they will be able to exercise their full rights as information users without complexity, significant expense or hardship. In addition, privacy rights for individuals using materials must be protected.

Second, the government needs to recognize that government documents and government data belong to all Canadians and that all Canadians should have access to these materials. Crown copyright needs to ensure that non-profit use by Canadians of all government information doesn't require permission or payment to the government. Instead, acknowledgment that information has been taken from a government source should be sufficient.

Third, persons with perceptual disabilities must have the same right to access copyrighted materials as all Canadians. This right should apply regardless of format in order to accommodate their particular needs. Legislation is required to give persons with perceptual disabilities access equity with others.

Finally, Toronto Public Library does not wish to see legislation that makes the same mistakes as the American *Digital Millennium Copyright Act*. American law does not adequately differentiate in penalties between a counterfeiter circumventing technical protection measures for illegal profit and an individual circumventing technical protection measures to make a single, legal copy.

As a Board, we urge you to address these serious concerns. Given the large scale public demand for input on copyright legislation, we ask you to consider authoritative, transparent and inclusive public consultations on copyright.

We would be willing to meet with you to discuss our concerns and the role the library community plays in providing Canadians access to all forms of material. This access to information is integral to ensuring that Canadians are regular contributors to the economic, social and cultural success of their communities.

We look forward to your support.

Sincerely,

Kathy Gallagher Ross
Chair, Toronto Public Library Board

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c: Toronto Area Members of Parliament