



CERC
Canadian Educational
Resources Council

October 12, 2010

Michael D. Chong, MP
Chair of the Standing Committee on Canadian Heritage
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, ON K1A 0A4

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Re: Impact of Bill C-32 on Canada's Linguistic Duality

Dear Mr. Chong,

As Executive Director of the Canadian Educational Resources Council, I am writing to you on behalf of Canada's educational publishing industry, to draw to your attention certain unintended consequences of Bill C-32, *The Copyright Modernization Act*, that bear on the future vitality of Canada's Official Language Minority Communities.

C-32 is broad-ranging and of great complexity. The issues it touches affect many stakeholders, some of whom have greater influence than others. It is all the more critical, in this context, that the unforeseen impacts on Canadians in a linguistic minority situation be taken into account as the legislation makes its way through the Parliamentary process.

Specifically, C-32 introduces a long list of new exceptions to copyright protection that will destabilize -- and quite likely render unsustainable -- an industry that, for decades, has created and distributed professionally produced educational resources for use in the schools that serve Canada's majority and minority linguistic communities.

Of these new measures, expanding the "fair dealing" exception to exempt educators from paying for licences to reproduce texts, as an alternative to buying originals, is of greatest concern.

Canada's educational publishers invest millions every year to develop professionally produced made-in-Canada materials that meet the demands of provincial curricula. The cold facts are simple: education publishers need to make a return on these investments, or go out of business. The margins are already slim on materials developed for Canada's relatively small majority-language markets: they are virtually non-existent for minority language materials. In effect, majority-language sales typically cross-subsidize production of the minority-language product, thus ensuring that all communities are served, whatever their official language.

The current system, based on a business model that requires educators either to purchase original materials or pay licence fees through a collective licensing regime when they reproduce these same materials for use in the classroom, provides many benefits.

Provinces, teachers, students, and parents benefit from a vibrant Canadian-based publishing industry that has the means and the flexibility to meet their needs, in both official languages (where provinces so require). Teachers have the benefit of high quality materials that meet the learning objectives of provincial curricula, again, in both official languages whenever and wherever required. Students benefit from having access to a wealth of Canadian references in the form of illustrations and examples that speak to their experience and thereby instill a sense of place and belonging.

It should be of particular concern to your Committee that C-32's many exceptions for educational use will defeat the purposes of the *Minority-Language Education* component of the *Development of Official-Language Communities* Program, which is central to the Government of Canada's Official Languages strategy.

The purposes of the *Minority-Language Education* component of the *Development of Official-Language Communities* Program are defined as follows:

"...to help provincial and territorial governments, directly or through the Council of Ministers of Education, Canada (CMEC), provide members of official-language minority communities (Anglophones in Quebec and Francophones outside Quebec) with education in their own language."

(<http://www.patrimoinecanadien.gc.ca/pgm/lo-ol/pgm/dclo-elm-eng.cfm>)

By damaging the market for educational materials in both Official Languages and thereby driving a made-in-Canada publishing industry into an unsustainable position, C-32 will undermine a critical pillar of the sustainability of vibrant Official Language Minority Communities, which depend on the availability of quality education services in the language of their choice.

The so-called "education exceptions" may be well enough intended. We all know that Canada's education sector is under financial pressure. Bill C-32 tantalizingly appears to offer help, but what it offers is a false economy. The revenue that will be lost to educational publishers through C-32 is a drop in the bucket in the context of education budgets that are in the tens of billions; however the loss of this revenue will make a huge difference to publishers and all the creative people they employ. In some cases, it will prove to be the difference between staying in the business or leaving it. The damage to our made-in-Canada educational publishing industry will be huge, but the ultimate losers will be Canadian students and teachers, casting a troubling shadow over the future of Canadian Linguistic Duality.

I would be very grateful for an opportunity to meet with you and your colleagues on the Standing Committee to discuss these troubling developments. As I mentioned, in legislation as complex as this, unintended consequences that are not immediately obvious, may be overlooked, as other facets receive media attention or are the subject of intensive lobbying efforts. However, you may be sure that I will be writing to representatives of Canada's Official Language Minority groups to ensure that this particular issue is on their radar.

Please feel free to circulate this letter to your colleagues. I also encourage you to discuss these matters with your caucus. It is important that these issues receive the attention they deserve.

In the meantime, I will be following up with a phone call to your office to explore the possibility of further discussion in a face-to-face meeting.

Sincerely,



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Cc: Richard Dupuis, Clerk ✓
Graham Fraser, Commissioner of Official Languages