



**A brief on**  
**Bill C-32: Copyright Law Reform and the CNIB Library**  
**to**  
**The Legislative Committee on Bill C-32**

**Respectfully submitted by**

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## **Bill C-32: Copyright Law Reform and the CNIB Library**

March 18 2011,

Dear Chair Gordon Brown and members of The Legislative Committee on Bill C-32. CNIB welcomes the opportunity to provide comments on Bill C-32, *An Act to amend the Copyright Act*. Specifically, CNIB wishes to comment on how Bill C-32 meets the recommendations CNIB provided in 2009 to the Copyright Consultation.

CNIB is a community based organization providing community-based support, knowledge and a national voice to ensure Canadians who are blind or partially sighted have the confidence, skills and opportunities to fully participate in life.

### **Background:**

CNIB provides public library services to Canadians living with vision loss and other print disabilities through the CNIB Library which produces and provides access to alternate format material. CNIB Library services have the potential to reach an estimated 3 million Canadians (10% of the population) with print disabilities for whom access to information in alternate format is the basis for education, employment, recreational reading and social inclusion.

The CNIB Library, in turn produces alternate format versions of books for its collection or acquires them from other alternate format producers. To do this, CNIB relies on S.32 of the Copyright Act, an exception for persons with perceptual disabilities.

These formats include digital text, audio and braille, structured in a way that a person using text-to-speech or

other adaptive technology can read and navigate a work independently by headings, indexes, and chapters mimicking how a sighted person reads in print.

As part of the Government of Canada's review of copyright law reform, CNIB sent a detailed position paper in August 2009 to the Government of Canada's Copyright consultation.

This briefing paper will address the recommendations made at that time pertaining to importing and exporting of accessible format materials, and the right to circumvent digital locks and Technical Protection Measures (TPM).

### **Issue One: Importing and Exporting of Accessible Materials**

There is an immediate opportunity for CNIB to increase the amount and linguistic diversity of accessible library material available to Canadians by collaborating with trusted intermediaries in other countries where there are similar legislative exceptions.

The ability to import and export alternate format material would also increase the overall output of alternate formats significantly, as each work would be produced once by a single organization, instead of multiple times by organizations in different countries. For example: if it takes 10 hours to narrate an audio book and eight different agencies produce it, 80 hours are used globally to produce a single book. That book and seven others could have been made available in the same time through international collaboration.

### **Recommendation One: Allowing the Importing and Exporting of Accessible Materials**

CNIB recommends that S.32 of the Copyright Act recognize the legitimacy of import and export of alternate formats

between trusted intermediaries in other countries, when the materials were lawfully made under a similar exception.

On the matter of importing alternate format materials made in other countries without infringing copyright in Canada, we are advised that this is permitted under section 27.1 of the Copyright Act on the basis that the reproduction would be lawful if done in Canada. Again, our preference is for an explicit reference to the section 32(1) exception in relation to importing these materials.

Although Bill C-32 does contain provisions on cross-border resource sharing, the export component is in our view unworkable. We do understand the reasoning behind section 37 but CNIB does not have the resources to work within the proposed scheme and its requirement to establish the citizenship of the copyright owner. We understand that amendments may be introduced to simplify the process for exporting alternate format materials to other countries. We may wish to comment further when we have reviewed these amendments.

### **Issue Two: Digital Locks and Providing for an Explicit Right to Circumvent for the Purpose of Utilizing Section 32(1)**

Ironically, previous attempts to reform copyright have introduced measures that would potentially restrict accessibility by locking down content and locking out Canadians with print disabilities that use text-to-speech and other adaptive technology. While Bill C-61 did permit for Technical Protection Measures to be circumvented for non-infringing use, it outlawed the tools required to do so. More to the point, it is unreasonable to expect any consumer to have the technical savvy required to acquire and use circumvention tools.

**Recommendation Two: Digital Locks and Providing for an Explicit Right to Circumvent for the Purpose of Utilizing Section 32(1)**

CNIB recommends that business practices such as Technical Protection Measures, which restrict accessibility, not be enshrined in legislation. Rather, Canada should invest in a digital publishing industry that produces formats designed for universal access and broadens the market for its cultural products.

However, if technical protection measures are legislated, then expand S.32 so that it recognizes that circumvention (and circumvention tools) are permitted when it is for the purpose of making material accessible to persons with perceptual disabilities. The recommended wording CNIB provided to the Copyright Consultation is:

"It is not an infringement of copyright for a person, at the request of a person with a perceptual disability, or for a non-profit organization acting for the benefit of a person with a perceptual disability, to circumvent a Technical Protection Measure (TPM) for the sole purpose of making the work perceptible."

**To Conclude:**

CNIB wishes to thank The Legislative Committee on Bill C-32 for accepting our written contribution on Bill C-32 and for CNIB to speak to the committee about this issue.

Respectfully submitted,



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## **Source**

Government of Canada. Bill C-32: An Act to amend the Copyright Act (Copyright Modernization Act). 2nd Reading, November 5<sup>th</sup> 2010, 40th Parliament, 3rd Session, 2010. Ottawa: 2010.