

Brief

**Subject:** Bill C-32 (was Re: Copyright Reform)

Hello MP Rajotte,

You had responded to my original message by writing "no legislation has been introduced to date. " As you know Bill C-32 has been introduced and I have some questions that I would appreciate if you could find answers to:

1. Canadian Heritage Minister James Moore has been an outspoken critic of the extension of the private copying levy to iPods, deriding it as the iTax. He is content to leave the levy on blank CDs in place, yet the forthcoming bill is likely to block personal copying of consumer purchased CDs that contain copy-controls onto blank CDs. Can you ask him why he believes it is acceptable for Canadians to pay twice - once for the CD and a second time for the levy on a blank CD - and still face the prospect of violating the law?
2. Thousands of Canadians buy DVDs from outside the country as they seek content not typically available at home. Yet DVDs purchased in Europe, Asia, or South America do not work on Canadian DVD players. The forthcoming bill is likely to block attempts to circumvent the region coding on DVDs and thereby stop Canadians from legally viewing DVDs they have purchased. Can you ask Minister Moore why the inconsistency with his pro-consumer position in other areas?
3. Documentary film makers and visual artists often use small clips from DVDs in their art. The use of those works without permission is currently permitted through the criticism and review sections of the fair dealing provision in the Copyright Act. The forthcoming bill is likely to block unlocking a DVD to use such clips, however, since the presence of a digital lock will trump fair dealing. In fact, even the much-discussed potential introduction of new artists' exceptions for parody and satire would be limited by locks. What is the Government's plan to allow Canadian creators to complete their art?
4. The Canadian media regularly rely on the news reporting section of the fair dealing provision to use portions of audio or video without permission. The forthcoming bill is likely to render such activities violations of the law anytime a digital lock guards the audio or video. Please ask Minister Moore if he believes this strikes a fair balance between copyright and freedom of the press?
5. With the emergence of the Amazon Kindle and Apple iPad, Canadian teachers and students are facing increasing pressure to switch to electronic books. E-books offer great potential, but also frequently come with restrictive digital locks that have been used to remotely delete content from users' devices in their own homes. Given the importance of the research and private study sections in the fair dealing provision, could you please find out if Minister Moore is satisfied with an approach that would hamper the use of those sections for a critical part of the education process?
6. The new copyright bill is likely to reintroduce new exceptions that legalize recording television shows (time shifting) or moving purchased content from one format to another (format shifting). While consumers will undoubtedly welcome these long overdue reforms, they will likely be contingent on the absence of any digital locks. Does the Government realize and accept that these new rights will be regularly blocked by anti-copying technologies?

7. Can you please find out if Minister Moore or anyone in the Goangovernment is aware that the solution to all of these concerns is a single provision that would allow Canada to implement the World Intellectual Property Organization's Internet treaties, provide legal protection for digital locks, and preserve the copyright balance by simply confirming that circumvention of a digital lock is not prohibited when undertaken for lawful purposes?

There was strong public opposition to the anti-circumvention provisions in last year's Bill C-61. So much so that thousands of Canadians spoke out against the U.S. approach during the copyright consultation, and even Industry Minister Tony Clement expressed support for a more flexible approach. However with this new Bill C-32, it would appear that the PMO's decision to side with Canadian Heritage Minister James Moore in requiring strict anti-circumvention rules reflects a long-term decision to prioritize U.S. interests on copyright ahead of the national interest -- the interest expressed by Canadians during those copyright consultations. The decision is particularly discouraging since it is unnecessary - a compromise could be struck that provides legal protection for digital locks, is WIPO compliant, and preserves the copyright balance.

I am awaiting your reply.

Cheers,  
Colin