



ANANSI

House of Anansi Press Inc. 110 Spadina Avenue, Suite 801, Toronto, Ontario, Canada M5V 2K4

tel 416-363-4343 fax 416-363-1017 www.anansi.ca

Michael Chong, M.P.
House of Commons
Ottawa, Ontario K1A 0A6

16 November 2010

Dear Mr. Chong,

We are writing to you as Chair of the Standing Committee on Canadian Heritage to express our concern about certain provisions of the Copyright Modernization Act, Bill C-32. In particular, we want to highlight the possible effects of the expansion of the fair dealing exception to include education.

The Speech from the Throne at the beginning of this Parliament, November 2008, said:

“Cultural creativity and innovation are vital not only to a lively Canadian cultural life, but also to Canada’s economic future. Our Government will proceed with legislation to modernize Canada’s copyright laws and ensure stronger protection for intellectual property.”

We support this goal entirely. But Bill C-32 falls short of this goal. The Bill as written does not protect our intellectual property; instead, it opens the door for its expropriation.

We do not expect that anybody would contemplate legislation that would exempt schools from having to pay for teachers, or for furniture, or for equipment. That would have dire economic consequences. So why should it be different for those who supply intellectual property? We, and our authors and illustrators, simply want to be paid for services rendered.

House of Anansi and our children’s division Groundwood Books derive significant income from sales into the educational market – primary, secondary, and post-secondary. We have always sold books into schools of course, but now, increasingly, we sell licenses for use and re-use of our material in classrooms and college and university libraries. We are paid for these licenses either directly or through Access Copyright, the collective licensing agency, and in turn we pay royalties to our authors and illustrators. This income helps keep us in business, and our business is a Canadian success story of great cultural importance. We employ 24 people; we pay ongoing royalties to over 100 Canadian authors and illustrators; we support dozens of suppliers within the Canadian publishing industry such as printers and freelance editors and designers. The books we invest in and develop are read all across the country and take Canada out into the world.



ANANSI

*House of Anansi Press Inc. 110 Spadina Avenue, Suite 801, Toronto, Ontario, Canada M5V 2K4
tel 416-363-4343 fax 416-363-1017 www.anansi.ca*

With education added to the fair dealing exception and with the removal of the presence of a collective license as a standard in determining fairness, we fear that the income we get from the educational market will vanish. This income is of vital importance to our continuing viability as a business. We use it to invest in the development of new books, new authors, new illustrators. Canadian jobs depend on our ability to make a return on this investment.

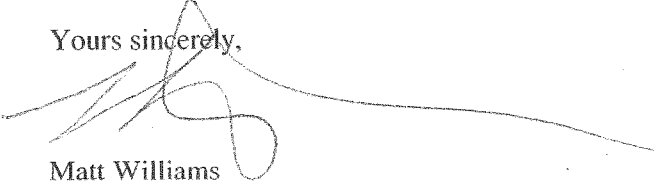
We think that this problem with the Bill needs to be addressed through certain amendments before it moves ahead.

1. The Bill does not define or limit the term "education". We believe that the intent of the government was to limit this term to education "in a structured context" – that is, a school, university or college – and we recommend that the Bill be amended accordingly. This would prevent private businesses whose mandate is not education from claiming, for example, that staff training qualifies as education, and therefore entitles them to free use of copyrighted works.
2. Damage to the market for a work is not given sufficient force in limiting the fair dealing exception. We believe that market damage and harm to the legitimate rights holder must be given priority in the Bill as a limitation to the fair dealing exception for education.
3. The existence of a license should be added as a consideration in deciding if a use falls under fair dealing. This will help protect the principle of collective licensing, which provides revenue on which we depend, and which serves to reinforce respect for the principle of intellectual property.
4. Any system of digital inter-library loan should be recognized as a scale of reproduction that falls beyond the scope of fair dealing, and should be subjected to a licence administered by Access Copyright or Copibec. This would increase the capacity of libraries to digitally distribute material without depriving publishers and creators of their right to derive revenue from the work in which they have invested.

We believe that these simple amendments would go a long way towards addressing our concerns about the fair dealing educational exemption, and balancing Bill C-32.

Thank you very much for your attention.

Yours sincerely,



Matt Williams
VP, Publishing Operations