



Ontario  
Association  
of Broadcasters

January 21, 2011

Gord Brown, M.P.  
House of Commons  
Ottawa, ON  
K1A 0A6

**VIA EMAIL**

Dear Mr. Brown,

Thank you for the opportunity to submit our views on copyright reform for the consideration of the Legislative Committee on Bill C-32. On behalf of the Ontario Association of Broadcasters (OAB), I would like to thank you and the members of your Committee for the work you are doing on copyright reform. Bill C-32 is an important and necessary piece of legislation that has been long anticipated by a broad range of stakeholders, including broadcasters.

The Ontario Association of Broadcasters represents the majority of radio and television stations in Ontario. We act as the voice for our members on issues that affect the industry as a whole. After 60 years of service, the OAB is at a critical stage of its development. In this time of consolidation, it is more important than ever to ensure broadcasters have a voice at the local and provincial level — especially in Canada's largest province.

OAB members have stations covering the entire province of Ontario, reaching over 10 million listeners/viewers every day. Collectively, we employ thousands of Canadians, who each are a vital part of the communities they serve through their work coordinating and carrying out hundreds of year round fundraising activities for local charities, coverage and promotion of local events and stories, and discovering and promoting local musicians. Ontario broadcasters make a real difference in Ontario communities and we are proud of the contributions we make.

Together with the Canadian Association of Broadcasters and regional broadcasting associations across the country, the OAB supports the passage of Bill C-32. Private broadcasters have been lobbying for change to copyright laws for as long as our associations have existed. Copyright is a key component of our business, as it is for many innovative businesses in this country. We believe that copyright laws should encourage growth and business innovation by facilitating the



use of content on a growing number of platforms, and thereby encouraging both the creation and exploitation of copyright works.

For broadcasters, the primary way in which Bill C-32 does this is through the proposed amendments to section 30.9, which acknowledge the technological realities of broadcasting in a digital era. In much the same way Bill C-32 recognizes that personal copies can be made without giving rise to copyright liability – for time shifting, format shifting, making backups – the proposed amendments to section 30.9 recognize that the reproductions taking place at radio stations are part of a purely technical process employed to prepare music for broadcast which yields no revenue.

As broadcasters, we are not challenging the copyright liability arising for the broadcast itself. Across the industry, we paid \$64 million in royalties for that right in 2009. That amount will not be affected by Bill C-32. We only take issue with the fact that the same rights holders are able to seek double payment from us (i.e. an additional \$21 million per year) on the back of a purely technical process.

This past summer the Copyright Board of Canada levied two more tariffs against our stations, adding a hefty increase to our already substantial copyright bills. It seems that every year there is another copyright payment layered on top of existing ones. First it was just SOCAN, then NRCC was added, then CSI, and now AVLA-SOPROQ and ArtistI, and we're told there are more applications before the Copyright Board which means there could be even more. Our stations really struggle to understand why they have to cut five cheques for the same thing. This continuous and unpredictable layering on of tariff payments makes it almost impossible for a small radio station to be able to budget for these large expenses, particularly because by the time the tariffs are certified we're often several years into the term which means stations have substantial retroactive liabilities. The result of this seemingly limitless liability is that some stations are facing very tough decisions about staffing and programming in order to make their tariff payments. This is unfair and unsustainable.

Our stations receive new music directly through a digital delivery service that is paid by the record labels to ensure music makes it to radio. Our music directors must download the tracks from this service in order to prepare the music for broadcast. This act of downloading now gives rise to \$21 million in copyright liability, on top of the \$64 million in copyright fees that the broadcasters pay to play the music. As an industry that invests substantially in our



communities, and directly in Canadian musicians, we are asking you to recognize that this multiplication of payments is unfair.

The Government has heard our arguments, and we ask the Committee to do the same. The proposed amendments to section 30.9 go a long way to reducing the artificial layering of royalties paid by Broadcasters for purely technical process that results in no additional revenues. We strongly support these amendments and consider them an essential component of the Bill.

I hope that this has been helpful to you and your Committee as you work to find solutions for meaningful copyright reform in this country. If you require any further information from the OAB, we are happy to assist in any way. Furthermore, any of our member stations would be happy to host you and members of your Committee for a “behind the scenes” tour of a broadcast facility to demonstrate first-hand the operational realities of broadcasting in the digital economy.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Kirk", is written over a faint, light blue circular watermark or background.

Douglas Kirk  
President  
Ontario Association of Broadcasters