

To members of the Bill C-32 Committee:

I welcome this opportunity to give my input to your deliberations.

There are many problems with the digital lock provisions in Bill C-32. I would like to focus on the impact on consumers.

a) Format shifting of music

The new right to legally shift music is subject to an anti-circumvention limitation. In other words, the right to shift music to my iPod is not a right that I control. It is a right that is effectively dictated by the record label who can easily remove the right by including copy-controls on the CD release. In fact, the anti-circumvention limitation even applies to private copies onto blank CDs. This means that I pay for the CD and pay the levy on a blank CD that nominally gives me the right to make a personal copy, yet I will violate the law if I circumvent a copy-control in order to do so.

b) Backup copies of commercial DVDs

The new backup copy provisions are subject to an anti-circumvention limitation. Since most commercial DVDs currently contain several TPMs, I would not be able to legally make a backup copy of my own personal DVDs.

c) Format shifting of content from DVDs

The format shifting provision is subject to an anti-circumvention limitation. Since most commercial DVDs currently contain several TPMs, I would not be able to legally shift content from a DVD to my iPod.

d) Recording television programs for later viewing (time-shifting)

If there is a digital lock (often referred to as a broadcast flag) included with the broadcast, I can't legally circumvent it in order to record the program. Note that the U.S. has established limits on the use of the broadcast flag, but no such limits exist in Canada. As Canada transitions to digital, it is possible that broadcasters will increasingly institute anti-copying notices to stop the very recording rights that C-32 purports to provide.

In short, the format-shifting, time-shifting and backup provisions are effectively trumped by digital locks. The ability of content distributors to squash these consumer rights makes these new rights meaningless.

The most obvious solution would be to alter the Bill C-32 approach by clarifying that it is only a violation to circumvent a digital lock where the underlying purpose is to infringe copyright. This

approach would ensure that the law could be used to target clear cases of commercial piracy but that individual consumer and user rights are preserved.

It is my hope that the committee can craft language and reach a compromise on these issues that preserve the new consumer rights while recognizing that the purpose of digital locks is to prevent commercial piracy.

Sincerely

Bill Wharrie