



January 30, 2012

The Honorable James Moore
Minister of Canadian Heritage and Official Languages
Canadian Heritage
15 Eddy Street
Gatineau, Quebec K1A 0M5 (*delivered by e-mail*)

The Honourable Christian Paradis
Minister of Industry and Minister of State (Agriculture)
Industry Canada
C.D. Howe Building
235 Queen Street
Ottawa, Ontario K1A 0H5 (*delivered by e-mail*)

Re: Bill C-11, An Act to Amend the Copyright Act

Dear Ministers:

I am writing to support the explicit inclusion of education as a fair dealing purpose in Bill C-11, due for consideration before the Legislative Committee on C-11 in the coming weeks.

The Council of Prairie and Pacific University Libraries (COPPUL) is a consortium of 22 university libraries in Canada's four western provinces. We collaborate to deliver information resources to our university communities and to support education and research at member institutions. Together these universities include over 260,000 full time equivalent students and the faculty and researchers who teach and work alongside them.

Among other activities, COPPUL licenses electronic information resources with usage rights for education, and coordinates interlibrary loan among our member libraries. As such, our members have a significant collective investment in preserving their ability to use educational resources as part of their teaching activities in a fair and reasonable way. Therefore I am writing to express my strongest support for explicit recognition of education as fair dealing, as it currently reads in Section 29 of the Bill. I can attest to the vigilance of faculty and librarians at our member institutions about compliance with copyright law. There are currently major educational campaigns underway on most of our campuses to help community members understand their rights and obligations.

The artificial separation of "education" from "research and private study" that was set up by language in the *Act* no longer reflects current reality or practice in the digital age. Students and faculty engage in synergistic exchanges in the libraries, offices, labs and classrooms on our campuses. It is unrealistic to separate "education" from "research and private study" when in fact these activities are deeply linked.

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Further, because all fair dealing purposes will still be subject to fairness tests, all educational uses will still be appropriately limited to achieve balance in the revised Act and prevent mass copying. For these reasons, I encourage you to retain the explicit mention of education as a fair dealing purpose in Bill C-11.

Opponents of this revision threaten that it will result in excessive uncompensated copying, litigation, and losses to authors and other copyright holders. In fact, the libraries at our member institutions already pay millions of dollars a year to license digital resources for educational use. Given that many of our faculty members are authors of scholarly works themselves, COPPUL is sensitive to the importance of creator compensation for creative work. We do not feel that this compensation is threatened by the inclusion of education among the fair dealing purposes, and we are very pleased to see it explicitly included as such in Section 29 of Bill C-11.

As with any copyright legislation, Bill C-11 must strike a fair balance between the rights of creators and the rights of users. Other aspects of Bill C-11 address this balance well, for example, revised provisions for educational public performance rights and electronic delivery for interlibrary loan purposes. In this regard the Bill would be significantly strengthened by permitting circumvention of technological protection measures for non-infringing purposes. As currently written, this prohibition undermines the balance that has been carefully crafted elsewhere in the Bill.

In considering revisions to *The Copyright Act*, Parliament must strive to strike an appropriate balance between the rights of creators and the rights of users. The member libraries of COPPUL seek legislation that reflects the current academic and publishing environment, and that will allow Canadian students, scholars and researchers to remain competitive in the digital economy. On behalf of the university libraries of western Canada, and the students and faculty whom we serve, we look forward to your strong support for education as a fair dealing purpose when C-11 is considered. I'd be pleased to speak to you or your staff about this matter if it you wish. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gwen Bird', with a long horizontal flourish extending to the right.

Gwen Bird
Executive Director

cc: Steve Schafer, COPPUL Chair