

November 2011
CONFIDENTIAL

Proposed revisions to draft C-11 legislation (in order of importance)

Information Location Tools

Section 41.27(2)(d):

(d) complies with any conditions **that are industry standard among providers of information location tools** relating to the making or caching, or doing of any act similar to caching, of reproductions of the work or other subject-matter, or to the communication of the reproductions to the public by telecommunication, that were **set established** by whoever made the work or other subject-matter available through the Internet or another digital network and that lend themselves to automated reading and execution; and

Hosting

Section 31.1(5):

Subject to subsection (6), a person who, for the purpose of allowing the telecommunication of a work or other subject-matter through the Internet or another digital network, provides digital memory in which another person stores the work or other subject-matter does not, by virtue of **that those acts alone**, infringe **any right under this Act**. ~~copyright in the work or other subject-matter~~

Caching

Section 31.1(4)(b)

(b) ensures that any **industry standard** directions related to its caching or the doing of any similar act, as the case may be, that are **set established** by whoever made it available for telecommunication through the Internet or another digital network, and that lend themselves to automated reading and execution, are read and executed; and

Inducers

Section 27(2.3):

It is an infringement of copyright for a person to provide, by means of the Internet or another digital network, a service that the person ~~knows or should have known~~ is designed primarily to enable acts of infringement of copyright if an actual infringement of copyright occurs by means of the Internet or another digital network as a result of the use of that service.

Remedies Against Information Location Tools

Section 41.27(1):

In any proceedings **under this Act** for infringement of copyright, the owner of the copyright in

a work or other subject-matter is not entitled to any remedy other than an injunction against a provider of an information location tool that is found to have infringed copyright by making a reproduction of the work or other subject-matter or by communicating that reproduction to the public by telecommunication, **where such injunctions shall be limited to ordering the provider of an information location tool to remove content from its service in response to notices provided under Section 45.25(2).**

Hosting Provisions

Section 31.1(6):

(6) Subsection (5) does not apply in respect of a work or other subject-matter if the person providing the digital memory ~~knows~~ **is notified by the owner of the work or other subject-matter** of (i) a decision of a court of competent jurisdiction to the effect that the person who has stored the work or other subject-matter in the digital memory infringes copyright by making the copy of the work or other subject-matter that is stored or by the way in which he or she uses the work or other subject-matter, **and (ii) the electronic location of the work or other subject-matter.**

Notice and Notice Remedies

Section 41.26(3):

In any proceedings, whether for infringement of copyright or otherwise, a claimant's only remedy against a person who fails to perform his or her obligations under subsection (1) is **single, one-time** statutory damages **award** in an amount that the court considers just, but not less than \$5000 and not more than \$10,000.