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OF CANADIAN
MUNICIPALITIES

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July 10th, 2018

Standing Committee on Industry, Science and Technology
House of Commons
Ottawa, Ontario
K1A 0A6

The Municipal Perspective on the *Copyright Act*

Dear Committee Members,

The Federation of Canadian Municipalities welcomes the opportunity to provide a municipal perspective to your statutory review of the *Copyright Act*.

Public libraries are important social infrastructure that provide residents access to shared community spaces and a wide variety of information in both digital and print form. E-books are becoming an increasingly preferred medium for library users to access information. Yet at the same time, major publishers are charging libraries prohibitively high prices for e-books, with some also establishing restrictive licensing models that limit their use. This is putting a strain on library budgets that rely primarily on municipal funds.

The *Copyright Act* has the legal authority to guide the licensing practices of publishers operating in Canada. However, in the case of library access, copyright law has been trumped by contractual agreements that erode various user rights. Specifically, Section 29 of the Act creates the fair dealing exception to copyright for the purpose of research, private study, or education. Fair dealing is a concept of critical importance in Canadian copyright, as it provides the foundation for user rights in support of culture, learning and innovation. Yet if a library and publisher agree in a contract that fair dealing will not apply, then the contract's provisions prevail regardless of what the Act provides. There are other provisions of the Act that are of specific value to libraries, such as interlibrary loans and access by persons with perceptual disabilities. This interplay between licensing as contractual arrangements and the rights available under Canadian copyright law therefore deserves further review.

In March 2016, FCM's Board of Directors adopted the resolution, **To allow Public Libraries to Purchase e-books from publishers at a fair and reasonable price**. The resolution requests that the Government of Canada address this issue as part of a statutory review of Canada's *Copyright Act* in 2017, with the aim of finding a solution that would allow public libraries to purchase e-books from publishers at a fair and reasonable price.

As such, FCM encourages the committee to review Section 29 of the Act and consider how the implications of the rights available under the *Copyright Act* compromise the ability of Canada's public libraries to deliver on their mandate of providing public access to a wide variety of digital information.

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Thank you for considering our comments during this important review of the Act. If you have any questions or would like to discuss FCM's recommendations further please contact Hardave Birk, Government Relations Advisor, at hbirk@fcm.ca or 613-907-6331.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vicki May Hamm", followed by a horizontal line.

Vicki May Hamm
Mairesse, Ville de Magog
FCM President

December 10, 2015

To allow Public Libraries to Purchase e-books from publishers at a fair and reasonable price

WHEREAS, The proliferation of e-book devices and the increased availability of e-content have led to a greater number of Ottawans wanting to borrow e-books and e-magazines from their public library; and

WHEREAS, public libraries, including the Ottawa Public Library are often unable to secure the e-book resources that are available to the general public, or are only able to secure them for limited periods of time and/or at significantly greater expense than the general public; and

WHEREAS, the Ottawa Public Library Board is committed to providing Ottawa residents with equitable and accessible public library service that provides universal access to a broad range of human knowledge, information and ideas in all its forms; and

WHEREAS, That the refusing to sell e-books or e-magazines to public libraries or imposing other terms that unreasonably increase costs undermines Ottawa Public Library's ability to serve Ottawans and are not the answer to a healthy publishing industry; therefore be it;

RESOLVED, That the Federation of Canadian Municipalities (FCM) request the Department of Canadian Heritage and Industry Canada include an examination of publishers' restrictive practices in making e-books and e-magazines available to public libraries, including the higher prices charged to public libraries, in any upcoming statutory review of the Copyright Act.

Ottawa, ON

2016 MARCH BOARD DECISION: Category A - concurrence