

April 24, 2018

To the Members of the Standing Committee on Industry, Science and Technology

I am a Canadian novelist and university teacher who writes to you about a matter that I believe is of great importance to the cultural workers of Canada. I and many other writers, publishers, and artists are deeply distressed by the damage that has been done to our rights as creators by the former government's Copyright Modernization Act of 2012. Since a review of copyright legislation is now in your hands, I believe it is important that you understand the hardship the present act has imposed on Canadian creators.

The writing and publishing sector of Canada has lost tens of millions of dollars each year since the inception of this Act. This is a result of universities and secondary schools taking advantage of the vague and ill-defined provisions of the Act to abandon a long-established licensing agreement that provided a small fee to writers, visual artists, and publishers when their work was used in the nation's classrooms. In 2012, universities and schools unilaterally began to write their own "Fair Dealing Guidelines," guidelines which were neither fair nor just, and which led to widespread and profligate copying of work that instructors and professors thought worthy of teaching, but that the institutions in which they taught did not think worth paying for. In response to this, Access Copyright, the organization that manages and disperses funds paid for copying to the creators of written and visual material, launched a lawsuit against York University because of its refusal to offer fair compensation for the work that it copied.

In a recent decision, the Federal Court ruled that York's copying guidelines (which provide a template for virtually every Anglophone university in Canada) are "not fair in either their terms or their application," and ordered the university to pay an established and mandatory tariff. What was York University's reaction to this judgement? They have appealed it, apparently hoping that artists', writers', and publishers' cash-strapped organizations will not be able to pursue their rights because they lack the financial resources to engage in protracted legal battles.

This is why it is so necessary for the government to review and revise the Copyright Act of 2012 in such a way that it guarantees fair compensation to creators when their work is used in Canada's schools and universities. The Federal Court has already affirmed that educational institutions must obtain a license to ensure legal copyright and content usage. The court could not have been clearer on this point yet the universities appear to be unwilling to return to a system of compensation that was ordered by the court and which worked very well in the past. They also appear equally unwilling to alter their fair dealing guidelines.

I do not mean to waste your time and your patience, but I ought to point out that I view this question from two sides. I am a writer of fiction but I am also the St. Thomas More Scholar at St. Thomas More College, University of Saskatchewan. I am well aware of the benefits of photocopying as an educational tool and of the curricular flexibility it provides. However, I am also shocked and dismayed that high-salaried university administrators object to paying pennies a day per student for material that they presently blatantly

expropriate from writers and visual artists struggling to keep their noses above the poverty line. As a professor of creative writing, I refuse to take part in this theft and so refuse to use photocopied material in my classes.

Let me emphasize that under the old licensing agreement sums paid to writers and artists were hardly lavish. A poet I know, the author of six books, and a woman who has a distinguished publication record in journals such as the *New Yorker*, used to receive approximately \$600 a year from Access Copyright. This was money that she used to pay for her annual trip to the dentist because most of the rest of her income was and is a pittance earned cleaning houses. Her most recent cheque had shrunk to a pitiful \$125. This tiny amount will surely plummet even further unless the government takes steps to stop schools' and universities' cavalier disregard of copyright. On average, payments made by Access Copyright have been reduced by 80 %. In fact, the organization itself may fold as a collecting agency without changes to the legislation, which would result in this poet and thousands of other of Canada's creators receiving absolutely nothing for their work. I am in a position that many of my colleagues aren't; my part-time university teaching provides me with a small but stable income. Nevertheless, I well remember the days when six or seven hundred dollars made the difference between buying prescription drugs or doing without them, between buying family Christmas presents or not. Countless Canadian writers and artists are exactly in the position I once was, which is why I make this appeal to you.

This is a matter of simple justice and it has a simple remedy. I ask you to consult with creators and their organizations and then take steps to amend the copyright legislation in a way that will return this country's educational institutions and artists to a relationship that was once beneficial, equitable, and just for both parties.

I look forward to hearing your thoughts on this matter. If you care to receive any further information regarding this issue please do not hesitate to contact me.

Most respectfully and sincerely,

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