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# Canadian Music Industry Lobby: Put SOPA Into C-11 Or Stand With Illegal Sites

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The reports

that the music industry lobby (along with the Entertainment Software Association of Canada and the movie lobby) is seeking the inclusion of SOPA-style provisions into Bill C-11 has generated considerable discussion online and in the mainstream media (CBC, Financial Post).

Yesterday, Balanced Copyright for Canada, the group backed by the music industry, fired back with several tweets claiming that opposing their reforms would benefit "illegal BitTorrent sites" and "illegal hosting sites."

Leaving aside the fact that if these sites are illegal, they are by-definition already in violation of current law, the claims point to what seems likely to become a SOPA-like scare campaign that seeks to paint skeptics of CRIA demands as supporters of piracy.

These claims involve two different issues with Bill C-11. The first are the digital lock provisions, which dozens of organizations (including businesses, the Retail Council of Canada, creator groups, consumer groups, and education associations) have argued are overly restrictive. The proposed solution is to link circumvention of a digital lock with actual copyright infringement, an approach that is consistent with the WIPO Internet treaties and has been adopted by trading partners such as New Zealand and Switzerland (Canada even proposed the approach in Bill C-60). These amendments would not legalize hacking businesses, but rather ensure that the same balance that exists offline is retained in the digital environment.

The second issue involves expansion of the "enabler provision" currently proposed in Bill C-11. I have pointed out that Canadian law appears to effectively address these sites as the music industry is currently suing

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for millions of dollars based on the current law. In the event that more certainty is needed, the current enabler provision would grant even more powers to rights holders to target these sites. Yet that is apparently not good enough for the music, software, and movie lobby groups, who want to expand the enabler provision to include SOPA-like liability as well as add website blocking injunctions to Canadian law. The danger with this approach is that it threatens to target perfectly legitimate websites.

Arguing against an overbroad enabler provision is not siding with illegal sites, but rather ensuring that legal ones are not caught by the dragnet.

The music industry claims to be a big supporter of Bill C-11, yet few groups have demanded more changes. In fact, when it appeared before the House of Commons committee reviewing the bill, one MP noted that their demands were "substantial" and "anything but minor." Their demands include:

- expansion of the enabler provision to include SOPA-style expanded liability
- create new injunction powers to block websites
- create new injunction powers to remove content from websites
- require ISPs to implement a policy on repeat infringers that could include Internet termination
- remove the non-commercial liability cap for statutory damages
- restrict the user-generated content provision
- create new limits on personal copying exception
- create new limits on time shifting exception
- create additional limits on backup copy provision
- limit the safe harbour for ISPs
- limit the safe harbour for caching activities
- limit the safe harbour for hosting content
- limit the search engine (ILT) exception
- eliminate the ephemeral recording amendment

The music industry is seeking a huge overhaul of Bill C-32 that makes any requests for adjusting the digital lock rules look minor by comparison. As it escalates the rhetoric by claiming critics stand with piracy, it is apparent that the lobby groups' fight to blend a Canadian DMCA with a Canadian SOPA will only intensify in the weeks ahead.