



TELUS
12 - 45 O'Connor Street
Ottawa, Ontario
Canada K1P 1A4

www.telus.com

Janet Yale
Executive Vice-President
Corporate Affairs

(613) 597-8347 Telephone
(613) 597-8422 Facsimile
janet.yale@telus.com

July 25, 2006

The Honourable Bev Oda, P.C., M.P.
Minister of Canadian Heritage and Status of Women
15 Eddy Street
Gatineau, Quebec
K1A 0M5

Dear Minister:

RE: Digital Copyright Review

As a long-time and active participant in Canada's on-going digital copyright reform process, TELUS would like to take this opportunity to present its views on the issues the company believes the Government should address as priorities in forthcoming amendments to the *Copyright Act*.

TELUS' three top priorities for the forthcoming amendments are: establishment of a modernized and flexible "fair use" approach to copyright exceptions; confirmation that ISPs are not liable for copyright infringements by their customers; and codification of the current voluntary "Notice and Notice" regime, with reasonable ISP compensation.

TELUS also considers it a priority that the Government ensure that the WIPO Broadcasting Treaty, if ultimately passed, contains a provision permitting Parties to opt out of the Treaty's proposed new retransmission right.

Each of these priority items are addressed briefly below:

Fair Use: TELUS joins the growing number of groups representing both copyright creators and users in urging the Government to replace the narrow and inflexible fair dealing provisions in the current *Copyright Act* with a "living" Fair Use model.

Canada needs a new regime for recognizing appropriate exceptions to copyright liability which will ensure our copyright laws have the capacity and capability to reflect and respond to changes in technology and in consumer behaviour. In order for Canada to continue to foster innovation and play a leading role in the development and usage of world class communications technologies, our copyright system must be flexible enough to adapt in a timely manner to the rapidly changing technical and entertainment environment we now face, while ensuring a proper balance is maintained between the rights of creators and the rights of consumers and other users.

In particular, the Government should ensure Canadians are able to use new technologies to fully enjoy copyrighted materials they have legally obtained or accessed in a manner that does no real measurable harm to copyright owners' legitimate interests. For example, customers of TELUS and other Canadian broadcasting distribution undertakings (BDUs) should be able to use new technologies to record, store and access television programming, for their own private enjoyment, at a time of their choosing ("time-shifting"). Similarly, Canadians should be able to transfer content they own from one device to another for ease and flexibility of access for their private use ("space-shifting").

ISP Liability: As is the case in the copyright laws of other major democracies, Canada's *Copyright Act* needs to codify that ISPs when acting as intermediaries for other people's content are not liable for the infringing activities of their customers. TELUS supports the approach to this matter previously taken in Bill C-60.

Notice and Notice with ISP Compensation: As previously proposed in Bill C-60, Canada needs to codify Notice and Notice. This made-in-Canada regime has proven to be the most practically effective and efficient approach to addressing the vast majority of online copyright infringing activity (i.e. through P2P file-sharing). In addition, appropriate, reasonable ISP compensation for administering the Notice and Notice regime will impart important and necessary discipline on the system, thereby ensuring its continued effectiveness and success by discouraging the voluminous level of automated, illegitimate and time-wasting claims which US ISPs have complained about for some time and which Canadian ISPs are increasingly facing.

WIPO Broadcasting Treaty: TELUS joins Canada's other major BDUs in asserting that the creation of a new broadcasting retransmission right as contemplated in the proposed WIPO Broadcasting Treaty, which could result in the outflow of over *half a billion dollars* to the United States, would have very serious and far-reaching negative consequences for the Canadian broadcasting system and for Canadian television consumers. For this reason, TELUS supports the Government's stated position that, should the Treaty be passed, it contain a clause permitting any Party to opt out of implementing the proposed new retransmission right.

TELUS urges the Government to promote this position much more aggressively at the WIPO table, particularly at the upcoming WIPO meetings in September. In the event the Treaty is passed without containing such an opt-out clause, TELUS urges the Government not to ratify it.

TELUS appreciates this opportunity to highlight its priorities for upcoming copyright reform and would be pleased to meet with you or your officials to explain further or expand upon these positions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Yale".

Janet Yale