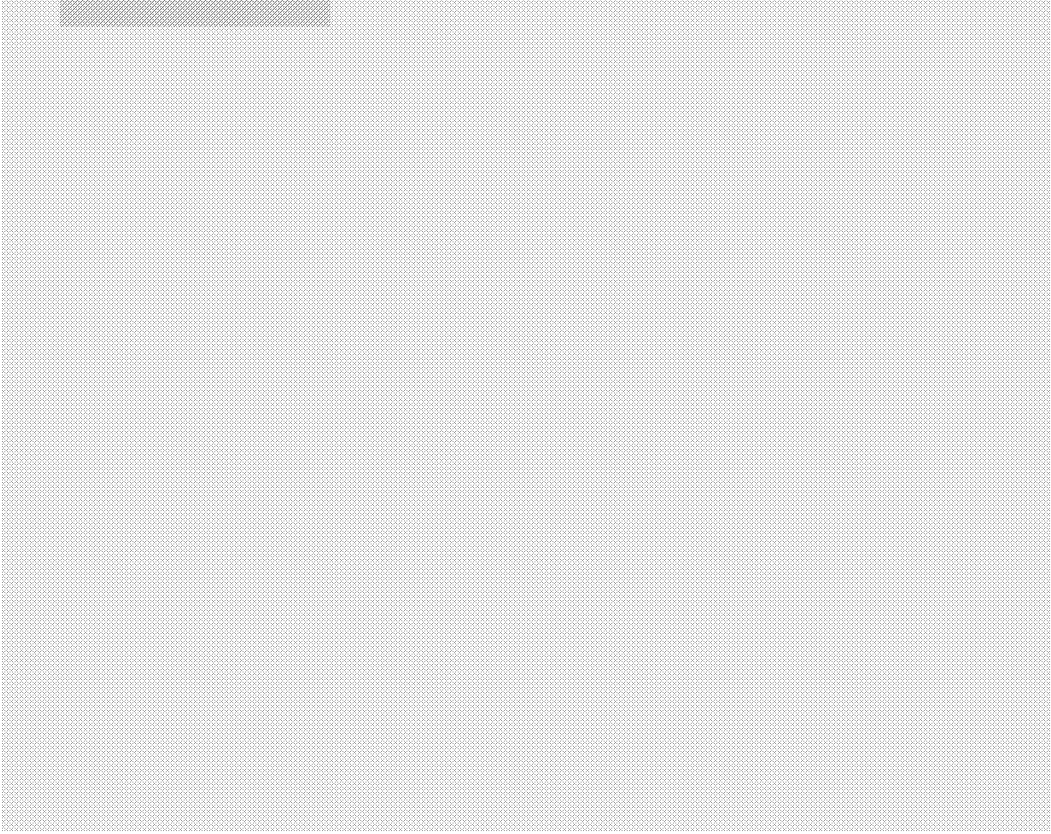


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2. Consumers

How do you reconcile your claim to “put consumers first” with the strong opposition from all Canadian consumer groups to your bill?

The Bill contains several pro-consumer provisions, such as:

- exceptions for students and researchers;
- court oversight over takedown of infringing web sites;
- strong safeguards for personal information.
- safeguard against statutory damages for circumventing a technological measure for private use

The Government is also moving forward with new regulations that will ensure that levies can never be imposed on new products such as memory sticks.

I have heard other proposals, such as the inclusion of time and format-shifting provisions.

If the Parliamentary Committee comes to a consensus on issues not currently included in the bill, I would consider their recommendations.

3. TMs and Copyright Holders Abuses

How can you be sure rights holders will not abuse of the new powers you're giving them?

First, a number of limitations are included in the bill, such as exceptions for interoperability, security testing, encryption research, persons with perceptual disabilities and protection of personal information.

Second, the Government would retain regulatory powers to make adjustments as needed.

Third, market discipline will force the companies that want to maintain their good reputation to exercise caution in the way they use TMs. Companies must also be mindful of consumer choices which will further impact their use of TMs.

4. TMs and Fair Dealing

In the U.S, new TM provisions trumped pre-existing fair use provisions. Will this bill produce similar “unintended consequences”?

The Government would retain regulatory powers to make adjustments if “unintended consequences” were to happen.

The Copyright Act, as any other law, will also continue to be subject to the Canadian Charter of Rights and Freedom, which explicitly guarantees the “freedom of thought, belief, opinion and expression.”

5. TMs and Privacy

What about the privacy concerns related to technological measures (TMs)? Will personal information be transmitted to private companies without my knowledge? The Privacy Commissioner herself has raised concerns about this.

The Government has responded to privacy concerns by providing consumers with safeguards that allow them to protect their personal information.

For example, the Bill would allow consumers to hack TMs in order to prevent unauthorized breach of their privacy.

Federal and provincial privacy laws also govern the treatment of any personal information that may be obtained through the use of TMs.

The Privacy Commissioner will be encouraged to continue to share her views at the upcoming hearings to be held by Parliamentary Committee.

6. TMs and Security

How can the Government make sure TMs are secure for my computer, MP3 players and other devices? How will I know if the material I am buying contains TMs or not?

First, the misuse of TMs is subject to applicable laws, including consumer protection and privacy legislation, and may give rise to civil remedies.

Second, the market will force the companies that want to maintain their good reputation to exercise caution in the way they use TMs. Companies must also be mindful of consumer choices which will further impact their use of TMs.

7. TMs and People with Disabilities

Why doesn't this bill give people with disabilities the same right to access copyrighted material as all Canadians have?

The bill explicitly proposes a limitation on TM protection to ensure that persons with perceptual disabilities are treated equally and that they are not prevented from enjoying copyright materials in a useful format.

8. TMs and Innovation

Won't stronger TM protection reduce interoperability, competition, security research and innovation?

Several provisions have been included in the bill to make sure that TMs do not unduly affect legitimate interoperability and security research.

The Government would retain a regulatory power to make adjustments as needed.

By providing greater clarity, this Bill will encourage innovation, accommodate new business models and strengthen Canada's global competitive position.

9. TMs Effectiveness

How would you respond to statements that TMs are ineffective at stopping copyright infringements, and this bill will be impossible to enforce?

The new provisions will send a strong signal to all Canadians and enforcement agencies that the Government takes the issue of IP protection very seriously.

They will also strengthen existing digital tools to protect original material.

Why are you adopting a TM-based legal approach when rights holders are increasingly dropping this business model? All the four major labels in the music industry, for example, recently decided to sell their products free of TM.

The new provisions will strengthen existing digital tools to protect original work.

At the end of the day, however, it will be up to right holders to decide if TMs are the best means to protect their content.

Those industries for which the use of TMs makes sense will have the support of the law.

For example, many software companies have made it clear that they were holding up investments in Canada in the absence of effective TMs protections.

10. Ban on anti-TM devices

How can you ban anti-TM devices when they will be needed to benefit from the exceptions outlined in the bill?

We are not proposing to ban legitimate anti-TM devices.

Devices designed for uses outlined in the bill would be allowed, while those specifically designed for illegal uses would be banned.

This means that it would be possible to produce, import, buy or use devices designed for, among others, interoperability, security testing, encryption research, format-shifting for persons with perceptual disabilities and protection of personal information.

11. Extensive vs. Restrictive TMs

Since there is flexibility in how we can implement WIPO provisions, why did you decide to give extensive TM protections, and not the more flexible protections contained in bill C-60?

This bill address what was one of the main criticism of bill C-60 by providing adequate legal protection for technological measures (TMs or digital locks).

The Government believes that rights holders need new tools to protect their material, develop new business models and offer more to consumers in the digital environment.

12. Extensive vs. Restrictive Fair Dealing

Why didn't you establish an inclusive fair use provision in the Copyright Act as can be found in other countries such as the U.S.?

The current fair dealing provisions of the Act, such as exceptions for private study or research, criticism, review or news reporting, already offer a significant degree of flexibility.

If the Parliamentary Committee comes to a consensus on this issue, I would consider their recommendations .

13. Time Shifting

Will we be able to record TV shows on VCRs and TiVo in order to watch them at a later time?

This aspect of the Act will not change. To my knowledge, rights holders have not complained about people using or selling TiVo so far.

Meanwhile, several new business models are increasingly allowing Canadians to access content at a time that suits them. Many producers are making their shows available on the Internet, and some broadcasters are now offering On Demand TV services.

I have also heard arguments for the inclusion of such provisions in the bill. If the Parliamentary Committee comes to a consensus on this issue, I would consider their recommendations

14. Format Shifting

Will copying CDs on MP3 players for personal use (i.e., not for sale) become completely legal?

This aspect of the Act will not change. As the law stands, copying to MP3 players requires the permission of rights holders.

Popular online services such as Puretracks or iTunes already offer such permission, and the development of new business models could also provide more choices for consumers.

I have however heard proposals about the inclusion of format-shifting provisions in the bill. If the Parliamentary Committee comes to a consensus on this issue, I would consider their recommendations .

15. Modernized Backup

Why didn't you modernize the backup provision, i.e. expand the right to make backup copies of software to all digital consumer products such as CDs, DVDs, and video games?

This aspect of the Act will not change.

If the Parliamentary Committee comes to a consensus on this issue, I would consider their recommendations

16. Sampling

Doesn't this Bill restrict creative practices such as sampling for music and documentary activities?

This bill does not change current law as it relates to sampling or documentary making, to the extent that TMs are not hacked in the process.

If the Parliamentary Committee comes to a consensus on this issue, I would consider their recommendations.

17. Downloading/File sharing

Will file-sharing be illegal?

The Bill will clarify that the unauthorized uploading or posting of copyrighted material on line is an infringement – as it is in virtually all developed countries.

18. Penalties

Will the bill allow record labels to sue individuals and groups for hundreds of thousands of dollars like in the US?

Existing law currently allows rights holders to sue infringers. The bill will not change this, but it will create new grounds on which record labels can sue.

The Copyright Act however provides the judiciary with wide discretion to ensure that penalties are proportionate to the gravity of the infringement.

The new TMs provisions also explicitly forbid the imposition of statutory damages for individuals who are circumventing protected material for personal use only.

Will my kids go to jail?

This is highly unlikely, because the new bill only provides for criminal sanctions when infringements are made with a commercial intent.

In all cases, the Copyright Act provides the judiciary with wide discretion to ensure that penalties are proportionate to the gravity of the infringement.

19. Making Available Right

Isn't the new "making available" right too broad? Infringement should be linked to actual distribution, to make sure penalties are linked to actual harm.

The main objective of this bill is to clarify that only copyright owners have the right to decide if and how they want their work to be available online.

As such, the Government believes that the act of posting copyrighted material on the Internet without authorization should be illegal in itself, regardless of whether or not another user actually accesses it.

20. WIPO Treaties

Wouldn't you agree that WIPO treaties are based on flawed logic that harm the interests of most creators?

Canada actively participated in the development of the 1996 WIPO treaties, which represent an international consensus on a copyright framework for the Internet.

They have been ratified by more than 60 countries worldwide with several more expected to follow soon, including all the members of the European Union.

Given the transborder nature of the Internet, the protections they provide will only be meaningful if countries coordinate their approaches in keeping with this consensus.

21. New Policy to Table International Treaties

How will the tabling of this bill interact with the Government's new policy to table International Treaties in House of Commons?

This bill seeks first and foremost to update Canada's copyright regime to better reflect the opportunities and challenges of the digital era.

Some of its provisions indeed implement provisions included in international treaties because the treaties also deal with the digital environment. The bill does not propose immediate ratification *per se*, which entails accepting certain obligations and responsibilities vis-à-vis the international community that has ratified the Treaties.

The government will consider ratification of the treaties in a distinct process after the bill has passed. The Bill is therefore not affected by the new policy.

23. Businesses Responsibility

Why is the government intervening in this issue at all? It has been said several times that it is a lack of innovation that lies at the heart of the industry's problem.

Government has an important role to play in ensuring that its laws remain up to date.

In particular, a modernized copyright framework will protect the environment for the development of Canada's copyright industries, encourage innovation, accommodate new business models and strengthen Canada's global competitive position.

24. Industry Canada's P2P study

Several months ago, Industry Canada released a study saying there was no link between file sharing and the decline in music sales. Why is the Government proposing policies that fly in the face of this research?

The government recognizes the study as a valuable contribution to the broader debate about file-sharing. It is important to note, however, that Industry Canada and Statistics Canada only asked the consultants to consider one copyright industry and that one should be careful about generalizing the findings to all others, e.g., film or software.

Second, the Government is proposing to create new legal tools that copyright owners are free to rely on or ignore.

Government research can provide some indication of the implications of such reliance, but copyright owners are ultimately the ones who will bear the consequences of their business decisions.

25. iPod Levy

Why have you not followed through on the Conservative Party of Canada pledge to "eliminate the levy on blank recording materials" as stated in your 2005 policy declaration?

If the Parliamentary Committee comes to a consensus on this issue, I would consider their recommendations.

Why are you putting forward regulations even though the Federal Court of Appeal struck down the Copyright Board's decision on levies for MP3 players?

The Canadian Private Copying Collective has indicated in a letter addressed to Minister Prentice that it will not be seeking to extend levies to new media until 2010 at the earliest. What is the need then for these regulations?

The rationale for these regulations is based on new protections that the government is proposing in a bill that may not pass. If the bill dies on the Order Paper, how will the government deal with the regulations?

This government is working with all interested parliamentarians to ensure passage of the bill.

Whether or not the bill passes, however, the regulations are also about attenuating the distortions that the levies create in the marketplace and that unfairly affect Canadian consumers and retailers.

For example, a levy that represents a significant percentage of the retail price of a recording medium will encourage people to find ways around paying it – through the grey and black markets. This hurts Canadian rights holders, businesses and honest consumers.

This distorting effect is likely to become more pronounced as new media with very high memory capacity enter the marketplace.

The regulations will put an end to any uncertainty surrounding the scope of the private copying regime.

Why is the government not consulting on the proposed regulations before pre-publication, as mandated by the government's own regulatory policy?

My department has already received thousands of letters from ordinary Canadians on this issue.

The government has heard the arguments of the commercial interests affected by the levies, whether as payers or beneficiaries.

We have also followed the debates and argumentation before the Copyright Board and the Federal Court of Appeal.

This is not a new issue and the views of stakeholders are quite well known.

Further, there will be a 30-days consultation period after pre-publication of the regulations during which time all stakeholders will be able to submit comments.

26. Consultations

What do you have to say to those who claim there has not been a sufficient amount of consultation before the tabling of the bill?

The issues considered in this copyright reform bill have been extensively debated and discussed over the past few years. In addition to the Government's work, numerous associations have published position papers. Newspapers and blogs have examined the Act from every angle. I myself have received hundreds of emails and letters on the issue.

Action is now long overdue.

We believe that this bill is a significant step forward and that it is now time for Parliamentarians to be seized of the issue.

s.21(1)(a)
s.21(1)(b)

27. Next Steps

There are several key issues that have not been addressed in the bill. Many consider this a serious oversight. Will they be looked at? Will you created an expert panel to do so? What are the next steps?

The government recognizes that there may be a number of issues of concern to Canadians that are not addressed in the Bill, but at one point action is needed.

The government's focus now is to address long outstanding issues that need urgent resolution.

Given the complexity of copyright law in an ever-changing digital environment, review and reform must be an ongoing process. Once these amendments have passed, we can turn to a consideration of the Canadian realities that prevail at that time.

In the meantime, if the Parliamentary Committee comes to a consensus on issues not currently addressed in the bill, I would consider their recommendations.

28. Artists

The creative community has sent mixed signals about supporting a copyright reform package.

The creative community is a diverse set of voices representing a wide spectrum of creators and other rights holders. It is to be expected that this community does not all speak with one voice or represent a single viewpoint. However, there is unquestioned support for copyright reform measures to address the digital environment, which comes from both the creator and the user communities.

