

## CANADIAN COPYRIGHT INSTITUTE

*Established to promote a better understanding of copyright and to encourage its use in the public interest*

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### **Intervention by the CCI to the Standing Committee on Copyright and Related Rights (SCCR 34) of the World Intellectual Property Organization (WIPO)**

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Thank you for the opportunity to make this written intervention.

I represent the Canadian Copyright Institute, which has a mandate to inform Canadians on copyright and copyright issues.

Regardless of user benefits deriving from exceptions and limitations for education, from Canadian rightsholders' perspective, it is important to recognize the potential problems with extending exceptions and limitations for education.

Broad exceptions for education immediately and directly reduce the purchasing of educational resources, harm rightsholders' (including small rightsholders') incomes, and are generally negative for the creative sector as well as for educators, because they disrupt the creation and availability of resources that respond specifically to national, regional, and specialized priorities.

The Canadian experience, during the lead-up to our 2012 copyright act revision, was that schools and universities promised they would continue spending on copyright-protected resources as they always had, and would not take unfair advantage of a new education exception for fair dealing. Australian educators, for example, now make more or less this same prediction for Australia if it makes similar changes in its copyright act.

But in Canada, hard on the heels of the new act, school and college administrators circulated policies nation-wide advising teachers and instructors to go on copying what they had been copying under collective licenses, with the glad news that all of that copying was now free, including digital copying. They abandoned the collective licenses that used to provide some compensation to the people who created the very resources educators still valued enough to continue copying for their students. It is hard to make common sense of the suggestion that this does not harm copyright holders by at least the value of the lost licensing revenue, before considering the other ways in which it disrupts a value-driven marketplace in which they sell their works. Instead of acknowledging this harm, the education community in Canada continues to argue that there are several causes of rightsholders' lost revenue, as if this means that no harm has been done. This is a clearly disingenuous argument, intended to distract rather than to pursue fairness.

The new educational exception for fair dealing broke the marketplace in Canada. In a balanced system, compensated copying and distribution of partial works provides a good option to purchasing full resources, but free copying outcompetes purchasing—even if the copying is limited to 10%, or one

chapter, or one poem, or one image. As a small publisher myself, for example, I cannot compete with free, and other independent publishers, authors, and artists are in the same predicament. I believe fair dealing in Canada, as a concept and a practice, used to make good sense for purposes such as private study, criticism, and satire, but when the exception was extended to “education,” it crashed the system.

All rightsholders took a hit, but because of the crucial importance of licensing revenues in their livelihoods, Canadian independent authors, illustrators and publishers suffered more than bigger rightsholders. As a result, we risk losing their distinctive contributions to education in Canada.

Fixing copyright for education should not mean breaking copyright for dedicated, effective contributors to education. With that in mind, I look forward to fixing copyright in Canada, and not breaking it elsewhere, as do those I represent at this important gathering.

Thank you again for the chance to contribute to this discussion.

Glenn Rollans  
Canadian Copyright Institute

