



Copyright Consultation

Get in on the debate. The Government of Canada is currently seeking public and stakeholder input on forthcoming copyright legislation. As copyright holders and consumers, you need to make your voice heard.

Individual creators are under-represented in the online exchange, and they need to hear your perspectives. You can share your thoughts and ideas through online consultations – by posting to a discussion topic or just writing (and submitting) a letter. The forum has been *very* active but they need to hear more from the people who create copyright works. Your ideas can influence the public and the policy-makers, and shape the debate going forward.

Visit <http://copyright.econsultation.ca/> and be heard. The forum closes on September 13.

The WGC's approach to copyright is grounded in one simple principle: copyright law should encourage widespread use and distribution of copyright works while ensuring creators are appropriately compensated for those uses.

Six Questions

The government has set out five points (six questions) for discussion. Writers can address any or all of them – so get in there and start pitching.

What follows is some of the WGC's thinking around these questions, and we hope that you will find it useful as a starting place.

Question 1: How do Canada's copyright laws affect you?

Start by telling them who you are and what you do. Personalize it – let them know what you've written and how long you've been working. It's important to note your status as freelancers. In this country, screenwriters – unlike staff, and unlike the U.S. model – retain copyright in the script.

Copyright is important for screenwriters of course because it gives you control over future productions of your script and is directly tied to your livelihood. Copyright exists to protect creators from non-creators copying their work and earning revenues from it. It came about because it was deemed fair that the author of a work, or their assignee, be the one with an exclusive right to make money from a work for a limited period of time. But new technologies (e.g. digital files, digital transmission) have made it cheap and easy for non-authors to copy files and make money from them.

At the same time, consumer behavior has changed: consumers have become accustomed to things like time shifting and format shifting – non-commercial practices that currently infringe copyright and generate no compensation for the creators of the works.

Screenwriters are compensated for the *primary* uses of their material (broadcast, video sales, iTunes download) through negotiated contracts and collective agreements. It is for *secondary* uses (like storing audio-visual work on a PVR or creating a backup copy, etc.) that Canadian screenwriters are not currently compensated.

Copyright laws will affect the ability of screenwriters to receive remuneration for these secondary uses of their material. This has a direct impact on the livelihood of screenwriters.

The solution is to maintain copyright protection in the case of commercial uses and to allow, through collective licensing, for the commonplace non-commercial uses to which consumers have become accustomed.

The solution for non-commercial use is collective licensing. This system already works for certain Canadian creators through the private copying levy – a modest fee on blank cassette tapes and CDs paid to the owners and authors of the sound recording. For instance, SOCAN collects funds from the private copying levy and distributes them as royalties to composers and music publishers. A similar levy can be added to ISPs, PVRs, hard drives and more, effectively licensing consumers to freely copy works for non-commercial purposes – they've paid for the right. No policing or enforcement necessary, and no criminalizing of common consumer behaviour. A win-win for consumers and creators.

Question 2: How should existing laws be modernized?

Rather than criminalizing commonplace consumer behaviours, we can use the Private Copying regime as a model for a new copying regime for personal use that more fully reflects consumer practices in the digital age. Pairing something like a new private copying regime with a collective licensing system would match the consumer's desire with the creator's due.

Canadian copyright law should recognize international standards in copyright by ratifying and implementing the WIPO Treaty.

Question 3: Based on Canadian values and interests, how should copyright changes be made in order to withstand the test of time?

Canadians are nothing if not fair-minded – they understand that the creators of the film and TV they enjoy should be paid for that content, that they have mortgages and bills to pay as well. There could be no professionally produced content otherwise.

In order to withstand the test of time, Canadian copyright law should be technology neutral – it should in this sense be based in general principles rather than on specific technologies. Enshrining the principle of access and remuneration through collective licensing will allow us to apply it to a wide variety of technologies, current, emerging and future.

Fair Dealing: there has been a lot of talk out there about expanding fair dealing. Right now, fair dealing allows copying some or all of a work for research, private study, review, criticism or reporting. Advocates for expansion of fair dealing, particularly the library and education sectors, wish to avoid paying licence fees to play movies or make copies of books and other materials for students or researchers. While it is understandable for education and library professionals to want to save money, they are salaried staff. Screenwriters and other creators are unsalaried and, while they want wide distribution of their work, they cannot afford to give it away. Such

blanket extensions of fair dealing would be done at the creators' expense, eliminating for them an existing and fair revenue stream.

Documentary producers too are calling for an expansion of fair dealing to allow them to reproduce copyright material in their documentaries without having to clear and possibly pay for rights. While it is understandable that documentary producers want to save money and time spent clearing rights, documentaries are, like other commercial productions, created with the intent to make money, and to reproduce another creator's work for commercial gain without paying that creator or at least obtaining their consent is not fair.

Other than amending fair dealing to allow for parody and satire (which is currently not included), we are recommending the government avoid the general weakening of fair dealing.

Question 4: What sorts of copyright changes do you believe would best foster innovation and creativity in Canada?

Creativity and innovation thrive in a culture where they are rewarded. Fair compensation for creators means that they have the resources and incentives to continue to create and further innovation. Consumer desires for easy access and use find a match in creators' desire for wide distribution and audience. A culture that supports this exchange rewards both consumers and creators. We can achieve this through collective licensing, and thereby create in Canada a sustainable culture of creativity and innovation.

Question 5: What sorts of copyright changes do you believe would best foster competition and investment in Canada?

Canada should ratify our international WIPO treaties so that we can live up to our international obligations. The WIPO treaties contain important rights and protections for creators, and act as an international standard around copyright.

Canada should avoid copyright legislation that mirrors U.S.-style DMCA which imposes stiff penalties on consumers. Maintain stiff penalties for commercial infringement, but open up consumer use through collective licensing.

Question 6: What kinds of changes would best position Canada as a leader in the global, digital economy?

Canada needs a National Digital Strategy, and creators need to be part of the discussion that informs it. To date, the chief voices at the table in the conferences and brainstorming sessions around the Strategy have been bureaucrats, academics and representatives of technology companies. Innovative content is a key component of the Canadian digital economy. It's not just about email and ecommerce. Content is king.

Canada can lead the global digital economy by rewarding innovation and creativity. Fair compensation to creators through collective licensing will encourage creators to be on the forefront of innovation, and ensure Canada produces the kind of compelling, professional content that will draw international audiences.