Writers Guild of Canada

**WGC presentation to the Legislative Committee on Bill C-32, a Bill to Amend the Copyright Act**

**February 17, 2011**

**[Maureen Parker]**

Good morning members of the Committee. My name is Maureen Parker and I am the Executive Director of the Writers Guild of Canada. Also with me today is Jill Golick, WGC President and screenwriter. Thank you for inviting us.

The Writers Guild is the national association representing more than 2000 professional screenwriters working in English-language film, television, radio, and digital production in Canada. Screenwriters in Canada have a vested interest in copyright – unlike their American counterparts, Canadian screenwriters retain copyright in their work and only license the right to produce to the producers. Their ability to make a living from their work is based on up front script fees, participation in producers' revenues and royalties based on copyright.

We agree that Canada's copyright law needs modernizing and we have been consistent advocates for copyright reform

over the years. Digital technologies have made it easy for people to copy and share creators' work. It's not just about music anymore. iPods and tablets are full of film and television programming. Audiences download programs to watch and store for repeat viewing. And we want that too. This is good for screenwriters. They want their work to be seen by the widest possible audiences. But copies have value and screenwriters want to be paid for that value.

Our biggest concern with the Bill is that not only does it fail to extend the private copying regime to all works and all media but in section 29.22 it expands the concept of private copying and gives that expanded use to consumers for free. Section 29.22 expands private copying from 'personal use of the person making the copy' to 'personal purposes' of an unknown number of people, thereby undermining existing sales of copyright works. Why buy a DVD of a movie if you can borrow a copy from your neighbour, or your friend or your cousin. It is impossible to quantify the financial impact of this clause but given how easy it now is to make copies of digital files we would expect a modern Copyright Act to help protect revenue streams rather than undermine them.

Our preference would be to remove s.29.22 to allow markets for these copies to develop. A second option would be to limit s.29.22 to music only so that it balances and works in tandem with the private copying regime, which is related to music only. Again, this would allow collective licensing for private copying of non-music works to develop outside of the Copyright Act or in future amendments of the Copyright Act. We will not be able to do either if these rights are given away for free now.

**[Jill Golick]**

Bill C-32 seems to be a concerted attack on collective licensing and s.29.22 is only one example. Our colleagues in the creative community have and will be providing you with other examples. This makes no sense to us as collective licensing, whether legislated or private market, seems to us to be a very simple solution to so many problems. Collective licensing allows consumers to easily license content without having to track down copyright owners. Collective licensing makes it easier for creators to be paid by consumers. Collective licensing has been working well in many sectors such as music and education for decades and it should be the

model for consumer use of content and creator compensation in the digital world.

However, for screenwriters to benefit from any form of collective licensing, there must be a definition of the author of the audio-visual work in the Copyright Act. Much like the photographer's rights, the lack of definition has been an anomaly from the beginning. The screenwriters and the directors have come together and agreed that they share authorship of audio-visual works. This is the situation in many jurisdictions around the world. We were disappointed to not see a definition included in the Bill. As well as impacting our ability to earn royalties, the lack of a definition means that audio-visual works do not enjoy the same protections as other works. For example, s.41.22 of the Bill protects rights management information, which allows screenwriters to track the use of their work and earn royalties around the world. Without authorship the prohibition against removing the identity of the author is meaningless for audio-visual works.

On a number of occasions the government has said that this Bill is good for creators because it gives us locks that we can use to protect us against piracy. Statements like this seem to

confuse the roles of copyright owners with those of copyright creators. As creators we have no control over whether a lock is added to a work. In fact, we have some concerns about locks preventing widespread use of our works. We want lots of people to see our films, tv programs and web series. We are concerned that locks are a failed business model for audio-visual works. They failed in music because consumers didn't want them. We see film and television going the same way. And we're ok with that – as long as we're compensated. Again, collective licensing is the answer.

**[Maureen Parker]**

We have concerns about other aspects of the Bill and we would be happy to address them in response to any questions that you might have. To reiterate our top concerns are:

- Remove s.29.22 or limit it to musical works only
- Define the author of the audio-visual work
- Support collective licensing as a forward thinking solution

We thank you for your time and look forward to answering any questions that you may have.