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**C-32 Committee Submissions By Individual/Organization
Clause-by-Clause Recommendations**
(as of September 2011)

Recommendation	Supporting Individuals/Organizations
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COPYRIGHT ACT

INTERPRETATION

Clause 3: Section 2.4(1.1) Distinguish between communications that are “to the public” and those that are not: Distinguish the sale of reproductions online from other forms of communication, such as streaming. The “making available” of reproductions would be covered under the existing reproduction right, while other acts of “making available” would be covered under the right to communicate to the public by telecommunication.	Business Coalition for Balanced Copyright
2.4(1.1) Make technical amendments to implement WIPO Treaties including to ensure makers of sound recordings have an exclusive making available right required by WPPT	MapleMusic
2.4(1)(b) Eliminate s. 2.4(1)(b)	Society of Composers Authors and Music Publishers of Canada (SOCAN)

PART I

COPYRIGHT AND MORAL RIGHTS IN WORKS

Copyright

Clause 4: Section 3(1) Clarify that first sale provision includes dissemination of online work	Pascale Chapdelaine
3(1) The allowance of parallel imports should not be limited to situation where there was an actual sale abroad	Retail Council of Canada
3(1) Canadian copyright owners should not be	Retail Council of Canada

able to block parallel imports of a legitimate product made abroad by another copyright owner. Need to resolve ambiguity in terms of which copyright owner must provide 'authorization'.	
3(1) Clause 4 is problematic because of the lack of consistency in the use of the principle of international exhaustion (depending on whether copyright or industrial property rights are at issue)	Barreau du Quebec
3(1)(g) The CARFAC/RAAV proposal to remove the effective date of June 7, 1988 for the exhibition right should not be supported	National Gallery of Canada
Section 6 Need shorter copyright periods/terms should not be extended (s.6)	Heather Morrison; Ryan Nicolson; Laurel Russwurm; Kevin Schneider; Gordon Taylor; Jason Millar; Dr. Meera Nair; Art Ortenburger; Project Gutenberg; Tom Trottier; James Cooper; Taylor Cutforth; Barbara Watson
6 Copyright terms should have fixed term after publication i.e. 25 yrs. Afterwards, copyright holder would have option to file for an extension, otherwise it would go into public domain (s.6)	Kevin Schneider; Gordon Taylor
6 Should not make the term of copyright protection for photographs longer/eliminate new rules for photographers	Canadian Council of Archives; Chris Brand
6 Add a "safe harbor" provision for works more than 75 years old where the life dates of the authors are not known	Project Gutenberg; Barbara Watson
Clause 6: Section 10 Photographer and copyright owner should not uniformly be deemed the same	Canadian Council of Archives
Section 12 Eliminate Crown copyright s. 12	Heather Morrison; Dr. Meera Nair; Ryan Nicolson; Art Ortenburger; Laurel Russwurm; Canadian Federation for the Humanities and Social Sciences; Canadian Association of Law Libraries
12	

Limit Crown copyright - add a provision that would state that any Crown copyright in Right of Canada in respect of enactments and consolidations of enactments of the Government of Canada, and decisions and reasons for decisions of federally-constituted courts and administrative tribunals, is limited solely to ensuring accuracy and the use of disclaimer of official status.	Canadian Civil Liberties Association
13(2) Exempting commercial photography for the purposes of advertising in s. 13(2).	Association of Canadian Advertisers
13(3) The maker of a cinematographic work should be the first owner of the rights to a cinematographic work	Association des producteurs de films et de television du Quebec

PART II
COPYRIGHT IN PERFORMERS'
PERFORMANCES, SOUND RECORDINGS
AND COMMUNICATION SIGNALS AND
MORAL RIGHTS IN PERFORMERS'
PERFORMANCES

PERFORMERS' RIGHTS

Copyright

Clause 9: Section 15 Clarify that first sale provision includes dissemination of online work	Pascale Chapdelaine
15(1)-(2) Exclusive reproduction rights should be extended to work recorded on a medium that includes a visual component	Union des artistes, the Quebec Musicians' Guild and Artisti

Moral Rights

Clause 10: Section 17 Eliminate moral rights	James Cooper
14.1 Revise moral rights – shift onus from the creator to the party wishing to use the creation	Dr. Meera Nair
17 Moral rights are problematic because of inconsistency with the law governing personality in the <i>Civil Code of Quebec</i>	Barreau du Quebec
17.1(1) Bring section into line with the WPPT and	Association des producteurs de films et de television du Quebec

its non-application to audiovisual works	
17.1, 17.2 Moral rights should be extended to audiovisual and cinematographic work	Union des artistes, the Quebec Musicians' Guild and Artisti
17.1(2) Eliminate provision that artists may be led to waive their moral rights with respect to a vocal performance or an artist's image	Union des artistes, the Quebec Musicians' Guild and Artisti
Clause 11: Section 18 Clarify that first sale provision includes dissemination of online work	Pascale Chapdelaine

PART III
INFRINGEMENT OF COPYRIGHT AND
MORAL RIGHTS AND EXCEPTIONS TO
INFRINGEMENT

INFRINGEMENT OF COPYRIGHT

General

Clause 18: Section 27 Clarify that enabling provision applies to hosting and caching services and that copyright holders can elect to obtain the full range of legal remedies including statutory damages	Entertainment Software Association of Canada
27 Prohibit services “especially designed or used” to enable infringement if another person commits such a violation on the Internet or any other digital network while using that service	Association des producteurs de films et de television du Quebec
27(2.3) Enablement provision should apply to services “primarily operated” to enable or induce infringement	MapleMusic
27(2.3) Amend enabling infringement provision to ensure that it applies to services “designed or operated primarily” to enable infringement	Entertainment Software Association of Canada
27(2.3) Wording “designed primarily” is problematic	Society of Composers Authors and Music Publishers of Canada (SOCAN)
Sections 27(2.3) and 27(2.4) Should not ban services like Bit-torrent trackers	Daniel AJ Sokolov

EXCEPTIONS

Fair Dealing

<p>Clause 21: Section 29 Clarify that specific user rights are not intended to limit or alter the scope of fair dealing</p>	<p>Canadian Association of Research Libraries; Canadian Home and School Federation; Canadian School Boards Association; Association of Canadian Community Colleges</p>
<p>29 Fair dealing should be a right, not an exception</p>	<p>Canadian Association of Law Libraries</p>
<p>29 Include wording “such as” to fair dealing provision so that it is not deemed exhaustive</p>	<p>Russel McOrmond; Brendan Moore; Ryan Nicolson; Art Ortenburger; Nancy Pardoe; Canadian Association of University Teachers; Canadian Civil Liberties Association; Canadian Federation for the Humanities and Social Sciences; Canadian Federation of Students; Canadian Library Association; Don Walsh</p>
<p>29 Eliminate fair dealing rights</p>	<p>James R. O’Hagan</p>
<p>29 Apply Supreme Court of Canada (SCC) factors to determine fair dealing:</p> <ol style="list-style-type: none"> 1. Purpose of the dealing 2. Character of the dealing 3. Amount of the dealing 4. Alternatives to the dealing 5. Nature of the work 6. Effect of the dealing on the work 	<p>Russel McOrmond; Art Ortenburger; Documentary Organization of Canada; Canadian Home and School Federation; Association of Universities and Colleges of Canada</p>
<p>29 Apply Berne 3 step test to fair dealing</p>	<p>Professional Writers Association of Canada; Société québécoise de gestion collective des droits de reproduction (COPIBEC); Society of Composers Authors and Music Publishers of Canada (SOCAN); Creators Copyright Coalition; Canadian Federation of Musicians; Union des consommateurs; Writers Union of Canada; Barreau du Québec</p>
<p>29 Limit factors such as “fairness” factors under fair dealing</p>	<p>Entertainment Software Association of Canada</p>
<p>29</p>	

Resolve ambiguities regarding exceptions in Bill – do not leave it to the courts	Professional Writers Association of Canada
29 Expand fair dealing for personal use	William McGrath
29 Expand fair dealing to include: reporting, time shifting, and criticism i.e. whistle-blowing	Ryan Nicolson
29 Eliminate fair dealing for education	Don H. Meredith; Outdoor Writers of Canada; Bernadette Renaud; Rosalind Ross; Société des auteurs de radio, télévision et cinéma; Société québécoise de gestion collective des droits de reproduction (COPIBEC); Society of Composers Authors and Music Publishers of Canada (SOCAN); Canadian Federation of Musicians; Canadian Educational Resources Council; Coalition of Internet music rights holders (CAMI); Union des écrivains québécois; Nicole Vachon; ‘Writers on Bill-C32’; Writers Union of Canada; Audio Ciné Films Inc.
29 Narrow fair dealing for education (i.e. to “structured contexts”/ “educational institution”)	Association of Canadian Publishers; Association of Universities and Colleges of Canada; Audio Ciné Films Inc.; Barreau du Québec
29 Digital interlibrary loans should be considered beyond the scope of fair dealing, and should be subjected to a license administered by Access Copyright or Copibec	Association of Canadian Publishers
29 Expand fair dealing for education to include multiple copies for classroom use	Russel McOrmond; Council of Ministers of Education Canada; Canadian Civil Liberties Association; Canadian Home and School Federation; Canadian School Boards Association; Canadian Teachers Federation
29 Give fair dealing for education broad and liberal rather than narrow interpretation	Jason Millar; Ryan Nicolson; Canadian Home and School Federation; Canadian Association of Law Libraries; Canadian

	Federation for the Humanities and Social Sciences; Canadian Library Association; Canadian School Boards Association
29 Amend fair dealing for educational purposes by requiring due diligence and enforcement mechanisms provisions (6 step test articulated by the SCC)	Documentary Organization of Canada
29 Market damage and harm to the legitimate rights holder must be given priority in the bill as a limitation to the fair dealing exception for education	Association of Canadian Publishers
29 Eliminate fair dealing for parody and satire	Société des auteurs de radio, télévision et cinéma; Society of Composers Authors and Music Publishers of Canada (SOCAN); Canadian Federation of Musicians; Nicole Vachon
29 Ensure parody and satire exceptions do not facilitate infringement of moral rights	Society of Composers Authors and Music Publishers of Canada (SOCAN); Union des écrivains québécois
29 Establish an exception for the performance of music for the purpose of demonstrating consumer electronics devices or selling CDs or DVDs	Retail Council of Canada
29 Establish an exception that immunizes any commercial photo finisher acting in good faith who relies on the written representation that the customer has the right to request the reproduction	Retail Council of Canada
29 Establish exception for reproduction for private purposes, and thus eliminate the need for the levies for private reproduction, the Fair Dealings exceptions for private study, and the proposed exceptions for time-shifting and format-shifting, and instead make exception for private reproduction in its entirety.	James Cooper
29 Allow copying for educational and archival purposes	Tom Trottier

Non-commercial User-generated Content (UGC)

<p>Clause 22: Section 29.21(1) Clarify instances where the creative acts in s. 29.21 will be deemed not to be infringing the moral rights of the author</p>	<p>Pascale Chapdelaine</p>
<p>29.21(1) Eliminate exception for non-commercial UGC</p>	<p>Don H. Meredith; Paul Nijjar; Professional Writers Association of Canada; Société des auteurs de radio, télévision et cinéma; Société québécoise de gestion collective des droits de reproduction (COPIBEC); Creators Copyright Coalition; Canadian Federation of Musicians; Coalition of Internet music rights holders (CAMI); Union des écrivains québécois; Visual Education Centre Limited; ‘Writers on Bill-C32’; Writers Union of Canada</p>
<p>29.21(1) Narrow exception for non-commercial UGC</p>	<p>Entertainment Software Association of Canada; Pascale Chapdelaine; CMRRA-SODRAC INC.</p>
<p>29.21(1) Add a requirement that the new work be “transformative”</p>	<p>Entertainment Software Association of Canada</p>
<p>29.21(1) Require that any existing works or other subject-matter used in the creation of the UGC are obtained legally</p>	<p>CMRRA-SODRAC INC.</p>
<p>29.21(1) and 29.24 Move ss. 29.21 and 29.24 to a different sub-heading so that they are not read as substitutive rather than additive to fair dealing rights</p>	<p>Canadian Library Association</p>
<p>29.21(1) Apply Berne test</p>	<p>CMRRA-SODRAC INC.</p>
<p>29.21(1) Specify that if commercial entities like Google and YouTube enable the individual to post UGC that contains copyright protected works, then they will be held responsible for infringement if they directly or indirectly benefit from that dissemination.</p>	<p>Society of Composers Authors and Music Publishers of Canada (SOCAN)</p>
<p>29.21(1) Provide that the exception is either not available to intermediaries, or if a license for the dissemination or reproduction for</p>	<p>CMRRA-SODRAC INC.</p>

the purposes of dissemination is available from a collective society	
29.21(1) Limit the application of the exception so that UGC intermediaries are not able to benefit from “hosting” exception in s. 31.1(6)	CMRRA-SODRAC INC.
29.21(1) Apply secondary infringement standard; and provide that use and dissemination should only be permitted when it does not prejudicially affect the copyright owner	Entertainment Software Association of Canada
29.21(2) Clarify meaning and application of “non-commercial” including its use in the <i>Act</i> alongside terms “private use” and “private purposes”	CMRRA-SODRAC INC.

Reproduction for Private Purposes

Clause 22: Section 29.22(1) Clarify whether s. 29.22 confirms an enforceable reproduction right of individual consumers, or a privilege granted by copyright owners	Pascale Chapdelaine
29.22(1) Eliminate broad exception for reproduction for private purposes	Writers Union of Canada; Union des écrivains québécois; ‘Writers on Bill-C32’; Don H. Meredith; Société des auteurs de radio, télévision et cinéma; Société québécoise de gestion collective des droits de reproduction (COPIBEC)
29.22(1) Narrow exceptions to ensure they apply only to the acts (“private use”) and individuals intended	Association des producteurs de films et de télévision du Québec
29.22(1) Narrow and clarify reproduction for private purposes based on current royalty systems	Canadian Federation of Musicians
29.22(1) Make personal exceptions available where a copy control measure has been circumvented, but not where an access control measure has been circumvented	Business Coalition for Balanced Copyright
29.22(1) Language of s.29.22 should permit other individuals of the same household to	Pascale Chapdelaine

perform the same act	
29.22(1) Consumers should be able to lend copies to a friend or extended family member	Pascale Chapdelaine
29.22(1) Limit private copying by individual for his/her purpose or for a member of his/her household	MapleMusic
29.22(1) The copy must be made on a medium or piece of equipment that belongs to the individual making the copy or to someone who is a member of his household	Association des producteurs de films et de television du Quebec
29.22(1) Limit private copying to copies of content a person owns or has a license to use	MapleMusic; Association des producteurs de films et de television du Quebec
29.22(1)(c) Amend s. 29.22(1)(c) to state: “for the reproduction of works for private purposes, the authors, performers and makers are entitled to remuneration from the manufacturer or importer of the medium or device, under the terms of s. 82 and subsequent sections of the <i>Act</i> .”	Union des consommateurs
29.22(1)(e) Narrow exception by defining “private purpose” to restrict methods of transfer (selling, leasing, renting, lending etc.)	Entertainment Software Association of Canada; Association des producteurs de films et de television du Quebec
29.22(2) Eliminate right to store reproduction for private purpose in digital memory	Visual Education Centre Limited
29.22(3) Remove limitation to private copying	Art Ortenburger
29.22 Remove lock requirements on time shifting, format shifting and backup copy provisions	Stephen Salomons; Alex Savulescu; Steven Splint; Daniel AJ Sokolov; Bill Wharrie; Ian Williams
29.22 All media must allow for creation of a personal archival copy, without being bound by technological restrictions	Grant Willison
29.22 Should not limit format shifting	Richard Payne
29.22 Allow a digital work to be copied to a digital player for personal, noncommercial	Richard Payne

use	
29.22(1)(e) Specify that private study legitimately involves ‘performing’ or otherwise displaying or using copies in presence of others	Canadian Federation for the Humanities and Social Sciences

Fixing Signals and Recording Programs for Later Listening or Viewing

Clause 22: Section 29.23(1) Eliminate 29.23(1)	Union des consommateurs; Visual Education Centre Limited; Union des artistes, the Quebec Musicians’ Guild and Artisti
29.23(1) Limit copying to sources that are legal	MapleMusic
29.23(1) Limit copying by the individual to his/her purpose of for a member of their household	MapleMusic
29.23(1)(d) Remove requirement of destroying time-shifted copies	Alex Savulescu
29.23(1)(e) Revise s. 29.23(1)(e) to prohibit the sale, rental or other distribution of copies – rather than merely “giving them away”	CMRRA-SODRAC INC.
29.23(1)(f) Revise s. 29.23(1)(f) to require that the copies be only for the “private use” of those who make them	CMRRA-SODRAC INC.
29.23(2) Expand s. 29.23(2) to exclude programs transmitted by “subscription services” defined to include any service that provides programs in exchange for a fee or other valuable consideration, as well as by on-demand services	CMRRA-SODRAC INC.
29.23(3) Definitions Revise the definition of “program” to ensure that it does not apply to single works, which would create a serious risk of eroding the market for digital downloads of musical and audiovisual works	CMRRA-SODRAC INC.

Backup Copies

Clause 22: Section 29.24 Eliminate backup copying exception	Entertainment Software Association of
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	Canada; Union des consommateurs; Union des écrivains québécois
29.24(1) Permit only one backup copy	CMRRA-SODRAC INC.
29.24(1) Backup copying exception should not apply where the making of such copies is covered by a contract, license, tariff or existing statutory scheme, including Part VIII	CMRRA-SODRAC INC.
29.24(1) Backup copying exception should not apply to programming or broadcasting undertakings	CMRRA-SODRAC INC.
29.24(1) Where a license exists and neither permits nor expressly prohibits the making of backup copies, the license should be required to comply fully with all other contractual terms in order to benefit from the exception	CMRRA-SODRAC INC.
29.24(1) Allow one backup copy of a digital work to be made, regardless of the format or whether an anti-circumvention measure has been employed in making the backup	Richard Payne
29.24(1) Ensure backup copies are only used for backup purposes	MapleMusic
29.24(3) and 30.6(b) Change destruction requirement for backup copies to “if practical, immediately, otherwise immediately after the retrieval or restoration of a backup”	Art Ortenburger
29.3 Exceptions should not be permitted if carried out with motive of gain, and, therefore, s. 29.3 of the <i>Act</i> should be amended to apply to Bill C-32	Society of Composers Authors and Music Publishers of Canada (SOCAN)

Educational Institutions

29.4(1) Eliminate references to “training” which may open the door to “educational” copyright exemptions for training in the private sector	Visual Education Centre Limited
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29.41 Render reproduction for instruction provision technologically neutral	Canadian Home and School Federation
Clauses 23-27 Opposes exempting schools from record keeping responsibilities	Visual Education Centre Limited
Clause 24: Section 29.5 Eliminate exception for cinematographic works	Audio Ciné Films Inc.; Visual Education Centre Limited
29.5 Reinstate public performance royalties provisions	Documentary Organization of Canada
29.6(1)(b) Eliminate references to “training” which may open the door to “educational” copyright exemptions for training in the private sector	Visual Education Centre Limited
Clause 27: Section 30.01 Eliminate communication of a work by telecommunication by an educational institution for distance education purposes s.30.01	Union des écrivains québécois
30.01 Eliminate s.30.01 destruction requirement for lesson material, digitally loaned copies/inter-library loans	Nancy Pardoe; Stephen Salomons; Council of Ministers of Education Canada; Canadian Association of University Teachers; Brad Struble; Canadian Federation for the Humanities and Social Sciences; Canadian Home and School Federation; Canadian Library Association; Canadian School Boards Association; Canadian Teachers Federation; Association of Canadian Community Colleges; Association of Universities and Colleges of Canada; John Barry; The Association pour l’avancement des sciences et des techniques de la documentation (ASTED); Michael Geist & Keith Rose
30.01 Replace special exception for the digital delivery of education with an amendment to the definition of “premise” of an educational institution	Canadian Federation of Students
30.01(3)(a) Eliminate references to “training” which may open the door to “educational”	Visual Education Centre Limited

copyright exemptions for training in the private sector	
30.01(6)(b-c) Eliminate the requirements for control and monitoring of digital teaching materials	Canadian Federation for the Humanities and Social Sciences
30.01(6)(c) and 30.1(5.02) Remove lock requirements for lessons and inter-library loans	Canadian Federation of Students; Canadian Federation for the Humanities and Social Sciences; Stephen Salomons; Michael Geist & Keith Rose
30.02 Remove inter-library loan requirements in s.30.2 (2), 30.2(3) and 30.2(5) of current <i>Act</i>	The Association pour l'avancement des sciences et des techniques de la documentation (ASTED)
30.02 Eliminate digital reproduction of works by educational institutions	Canadian Home and School Federation; Canadian Library Association; Association of Canadian Community Colleges; Council of Ministers of Education Canada; Canadian Federation of Students
30.02 Distinguish between digital reproduction and print reproduction, and adjust compensation accordingly	Union des écrivains québécois
Eliminate reverse onus provision by which copyright owners have to monitor and enforce educational violations	Visual Education Centre Limited
30.02(1), (7) Eliminate references to "training" which may open the door to "educational" copyright exemptions for training in the private sector	Visual Education Centre Limited
30.02 and 30.03 Such phrases as 'has a repographic reproduction license' should be expanded to 'has an agreement with the relevant rights holder or has a digital reproduction license'	Canadian Federation for the Humanities and Social Sciences
30.03 Eliminate digital reproduction royalties for educational institutions	Canadian Home and School Federation; Canadian Library Association; Association of Canadian Community Colleges; Canadian Federation of Students
30.04 Eliminate exception for educational institutions using publicly available material on the Internet	Canadian Civil Liberties Association; Canadian Library Association; Union des écrivains québécois; Nicole Vachon;

	Documentary Organization of Canada; Visual Education Centre Limited
30.04(1) Eliminate references to “training” which may open the door to “educational” copyright exemptions for training in the private sector	Visual Education Centre Limited
30.04(5) Amend s.30.04 (5) to state that subsection 1 does not apply if the educational institution or person acting under its authority “knew or could reasonably have been expected to know”...	Canadian Home and School Federation; Canadian School Boards Association; Association of Canadian Community Colleges

Libraries, Archives and Museums

30.1 Libraries, archives and museums should be allowed to retain intermediate copies for the purpose of maintenance/preservation	Canadian Federation for the Humanities and Social Sciences
Clause 29: Section 30.2(5) Ensure that inter-library loan and resource sharing has no restrictions for people with perceptual disabilities or agencies working on their behalf	Provincial Resource Centre for the Visually Impaired
30.2 Eliminate digital delivery by libraries	Writers Union of Canada; ‘Writers on Bill-C32’
30.2 Documents on loan through a library or used by an educational institution should not be allowed to be copied unless authors are compensated	Nicole Vachon
30.2 Interlibrary loans: Should be able to use the digital copy for an unlimited period	Canadian Association of Research Libraries; Association of Universities and Colleges of Canada
30.21 Need to be able to make “orphan works” available online despite not knowing name and year of death of creator	Canadian Council of Archives
Clauses 28-30 Opposes that libraries, archives and museums receive exemptions but do not have to keep records	Visual Education Centre Limited

Encryption Research

<p>Clause 31: Section 30.62 Extend encryption research exceptions to all research/establish a research exception; Drop the notice requirement.</p>	<p>Stephen Salomons; Brad Struble; Canadian Federation for the Humanities and Social Sciences; Michael Geist & Keith Rose; Paul Nijjar</p>
<p>30.62(c) Minimize anti-competitive behaviour by eliminating notice requirement for interoperability research under s.30.62(c)</p>	<p>Richard Payne</p>

Temporary Reproductions for Technological Processes

<p>Clause 32: Section 30.71 Eliminate s. 30.71</p>	<p>CMRRA-SODRAC INC.; Coalition of Internet music rights holders (CAMI)</p>
<p>30.71 State that s. 30.71 does not apply to reproductions made by or under the authority of a “programming undertaking” as defined in s. 30.8(11), or a “broadcasting undertaking” as defined in s. 30.9(7)</p>	<p>CMRRA-SODRAC INC.</p>
<p>30.71(b) Amend s. 30.71(b) by adding “... and the reproduction itself has no significant economic value”</p>	<p>CMRRA-SODRAC INC.</p>
<p>30.71(c) Amend s.30.71(c) by replacing the words “the duration of the technological process” with “no more than transitory”</p>	<p>CMRRA-SODRAC INC.</p>
<p>Clause 34: Section 30.9 Maintain s. 30.9(6) ephemeral recordings</p>	<p>MapleMusic; Ole; Creators Copyright Coalition; Canadian Federation of Musicians; CMRRA-SODRAC INC.; Coalition of Internet music rights holders (CAMI); Union des artistes, the Quebec Musicians’ Guild and Artisti</p>
<p>30.9(6) Supports Hayes eLaw LLP submission in respect of proposed technical amendments to s. 30.9 to ensure that radio broadcasters will not be required to compensate copyright owners for technical transfers of format</p>	<p>Canadian Association of Broadcasters</p>
<p>30.9(6) Extend radio broadcasters exception to ephemeral reproductions made by TV</p>	<p>Business Coalition for Balanced Copyright</p>

broadcasters	
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Network Services

Clause 35: Section 31	
31.1(1) Establish safe harbor protection for organizations that are not intentionally infringing copyright works	Kevin Schneider; Business Coalition for Balanced Copyright
31.1(1) Information location tool safe harbor: Limit exception to innocent search engines whose dealings with works are fair	MapleMusic
31.1(1) Extend ISP protections to libraries/archive facilities/educational facilities when acting as ISPs	Canadian Home and School Federation; Canadian Council of Archives
31.1(2) ISPs and intermediaries should lose immunity status if they fail to act reasonably to deter copyright infringement	Creators Copyright Coalition; Society of Composers Authors and Music Publishers of Canada (SOCAN)
31.1(2) Network services and safe harbor: Limit the exception to innocent intermediaries by using language as interpreted by Supreme Court	MapleMusic
31.1(3) Caching safe harbor: Limit exception to innocent intermediaries who do not enable infringement	MapleMusic
31.1(4) ISPs should not be required to block services that could potentially lead to copyright violations in order to be shielded from liability	Union des consommateurs
31.1(4) Modify safe harbor to ensure that an ISP or operator of an information location tool is not required to prove each time that it is not an “enabler” under s. 27.2(3)	Business Coalition for Balanced Copyright
31.1(4) Safe harbor should not apply unless an ISP can prove it had no knowledge that copyright infringement was occurring on its network service	Society of Composers Authors and Music Publishers of Canada (SOCAN)
31.1(4) Add requirement that ISPs and network	MapleMusic; Society of Composers

service providers fully comply with notice and notice provision to benefit from safe harbor	Authors and Music Publishers of Canada (SOCAN)
31.1(5) Hosting safe harbor: Limit exception to innocent hosting providers who do not enable infringement	MapleMusic
31.1(5) Amend hosting provisions to make it clear that providers of remote storage do not violate copyright law when they transmit stored files back to the individuals who are allowed to access them	Business Coalition for Balanced Copyright
31.1(6) Hosting safe harbor: Condition the exception by requiring the removal of infringing files from a cache if the provider knows it is infringing in order for the exception to apply	MapleMusic

Persons with Perceptual Disabilities

32 Render s. 32 technologically neutral	Council of Ministers of Education Canada; Provincial Resource Center for the Visually Impaired; Canadian Home and School Federation; Canadian Library Association
32.01 Remove the restrictions, royalties and regulations on sending copies of alternate formats outside Canada. Arrange for reciprocal agreements.	Provincial Resource Centre for the Visually Impaired
32.01(1) Allow importing and exporting of accessible materials	Canadian National Institute for the Blind
32.01(4) No royalties should be payable for sending a copy of special-format materials for a person with a print disability to another country	Council of Ministers of Education Canada; Canadian Home and School Federation; Association of Canadian Community Colleges
32.01 Regulations Publishers must make texts and materials readily available to students with disabilities i.e. students should be able to purchase structured, alternate format texts from bookstores in the same manner other students purchase print texts.	Canadian Association of Disability Service Providers in Post-Secondary Education

<p>32.01 Regulations Require publishers and producers of print and non-print instructional materials sold and used in Canadian institutions of postsecondary education to provide structured e-text files of those instructional materials to institutions upon request and in a timely manner.</p>	<p>Canadian Association of Disability Service Providers in Post-Secondary Education</p>
<p>32.2 Libraries and educational institutions must be able to convert work into large-print books</p>	<p>Canadian Association of Research Libraries</p>
<p>32.3 Delete the “commercially available” condition in s. 32(3)</p>	<p>Council of Ministers of Education Canada; Canadian Home and School Federation; Association of Canadian Community Colleges</p>

PART IV
REMEDIES

<p>Clause 46: Section 38(1) Establish higher statutory damages/should not lower statutory damages/maintain damages in current <i>Act</i></p>	<p>Professional Writers Association of Canada; Société québécoise de gestion collective des droits de reproduction (COPIBEC); Visual Education Centre Limited; Union des écrivains québécois; Visual Education Centre Limited</p>
<p>38(1) Give judges discretion to lower damages</p>	<p>MapleMusic; Creators Copyright Coalition</p>
<p>38(1) Remove exclusion of statutory damages for those that enable infringement</p>	<p>MapleMusic; Creators Copyright Coalition; Writers Union of Canada</p>
<p>38(1) Limit statutory damages to instances of commercial infringement</p>	<p>Canadian Association of University Teachers</p>
<p>38(1) Lower statutory damages for non-commercial infringement to no more than \$1,000</p>	<p>Daniel AJ Sokolov</p>
<p>38(1) Ensure damages are proportionate to scope of infringement</p>	<p>Ryan Nicolson</p>
<p>38(1) Educational institutions should be</p>	<p>Council of Ministers of Education Canada;</p>

immunized from statutory damages if acting in good faith	Canadian Association of University Teachers; Canadian Civil Liberties Association
38(1) Limit legal penalties for a library, archive, museum or educational institution, or a staff member or student in such an institution, who reasonably believes that the use of a work is in compliance with copyright law, and discovers after the fact that they have unintentionally infringed – only injunction should be available	Canadian Association of Research Libraries; Canadian Home and School Federation; Association of Universities and Colleges of Canada
38(1) Add a clear definition of “commercial infringement”	Brendan Moore
38(1) Damages for non-commercial infringement should only benefit individuals, not corporate/institutional infringers	Writers Union of Canada
38(1) If there is a cap on statutory damages, it should only apply to individuals who infringe for personal purposes	Entertainment Software Association of Canada
38(1) Apply the damage award on a per infringement basis	Entertainment Software Association of Canada

*Technological Protection Measures and Rights
Management Information*

Clause 47: Section 41 Digital locks should not override fair dealings and other exceptions/exceptions should not be subjected to anti-circumvention prohibitions (i.e. eliminate 29.22(c), 29.23(b), 29.24(c))	Jason Millar; Dr. Meera Nair; Ryan Nicolson; Alex Oren; Kevin Redick; Steven Splint; Brad Struble; Trevor Tye; Council of Ministers of Education Canada; Paul Cullum; Documentary Organization of Canada; Bruce Elrick; Canadian Association of Research Libraries; Canadian Association of University Teachers; Canadian Civil Liberties Association; Canadian Home and School Federation; Canadian Library Association; Canadian National Institute for the Blind; Ian Williams; Tamara Winegust & Rachel Gold; Jonathan Bagg; John Barry; BattleGoat Studios; Jesse Betteridge; Chris Brand; Business Coalition for Balanced
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	Copyright; Canadian Association of Law Libraries; Michael Geist & Keith Rose
41 Definitions Exclude access controls that are unrelated to preventing infringement from the definition of TPM	Paul Nijjar; Art Ortenburger; Brad Struble; Michael Geist & Keith Rose
41 Prohibit digital locks/do not provide them legal protection/digital locks should not fall under copyright jurisdiction	Carl Michal; Ryan Nicolson; Carl Plesz; Laurel Russwurm; James Cooper; Paul Cullum; Scott Barker; Chris Brand
41 Digital locks should have expiration dates	Jeffrey Streifling; Taylor Cutforth
41 Receive small revenue from those wishing to have longer locks on their digital properties	Taylor Cutforth
41 Anti-circumvention provisions should be accompanied by stipulations concerning feasibility of circumvention options	Canadian Federation for the Humanities and Social Sciences
41 Need to create incentives to make the use of TPMs effective	Union des artistes, the Quebec Musicians' Guild and Artisti
41.1 Link the prohibition of circumvention to infringement by either: a. Adding an infringing purpose requirement to the prohibition of circumvention; or b. Adding an exception for circumvention for lawful purposes	Julia Mackay; William McGrath; Russel McOrmond; Carl Michal; Brendan Moore; Heather Morrison; Ryan Nicolson; Paul Nijjar; Alex Oren; Art Ortenburger; Nancy Pardoe; Carl Plesz; Retail Council of Canada; Stephen Salomons; Kevin Schneider; Daniel AJ Sokolov; Steven Splint; Brad Struble; Trevor Tye; Council of Ministers of Education Canada; James Cooper; Joe Crouser; Paul Cullum; Cory Doctorow; Documentary Organization of Canada; Bruce Elrick; Canadian Association of Research Libraries; Canadian Association of University Teachers; Canadian Civil Liberties Association; Canadian Council of Archives; Canadian Federation for the Humanities and Social Sciences; Canadian Federation of Students; Canadian Home and School Federation; Canadian Library Association; Canadian Teachers Federation; Don Walsh; Bill Wharrie; Ian

	Williams; Tamara Winegust & Rachel Gold; Association of Canadian Community Colleges; Association of Universities and Colleges of Canada; The Association pour l'avancement des sciences et des techniques de la documentation (ASTED); Jonathan Bagg; Scott Barker; John Barry; BattleGoat Studios; Jesse Betteridge; Chris Brand; Michael Geist & Keith Rose
41.1(7)-(10) Add provision to allow “qualified circumventers” to facilitate legal circumventions	Stephen Salomons; Brad Struble; Council of Ministers of Education Canada; Canadian Civil Liberties Association; Canadian Council of Archives; Canadian Federation of Students; Canadian Home and School Federation; Canadian National Institute for the Blind; Tamara Winegust & Rachel Gold; Association of Canadian Community Colleges; Association of Universities and Colleges of Canada; Michael Geist & Keith Rose
41.1(c) Eliminate the ban on circumvention devices/technologies. Drop any paragraphs that are rendered moot by this change, such as 41.11(3).	Julia Mackay; William McGrath; Carl Michal; Brendan Moore; Heather Morrison; Ryan Nicolson; Art Ortenburger; Retail Council of Canada; Stephen Salomons; Daniel AJ Sokolov; Steven Splint; Brad Struble; Council of Ministers of Education Canada; Documentary Organization of Canada; Canadian Association of University Teachers; Canadian Civil Liberties Association; Canadian Council of Archives; Canadian Federation of Students; Canadian Home and School Federation; Canadian National Institute for the Blind; Tamara Winegust & Rachel Gold; Association of Canadian Community Colleges; Association of Universities and Colleges of Canada; Jonathan Bagg; BattleGoat Studios; Chris Brand; Michael Geist & Keith Rose
41.1 Failure to grant lawful access to material under TPM should be punished	James Cooper
41.1 Distributors should have the right to place digital locks on works	Canadian Federation of Musicians
41.1	

Distributors should not have the right to place digital locks on works	Cory Doctorow
41.1 Allow content creators to authorize the removal of digital locks	Don Walsh
41.1(1) Provide that the copyright owner has the same remedies against a person who, without the owner's consent, knowingly: sells, rents, distributes the work to such an extent as to prejudicially affect the owner of the copyright; by way of trade, distributes, exposes, or offers it for sale or rental or exhibits it in public; imports it into Canada for the purpose of doing any of the prohibited acts; or communicates it to the public by telecommunication.	Association of Canadian Community Colleges
41.1(1) Restrict application of TPMs - include a prohibition on applying a TPM to a work that would hinder its non-infringing use, or hinder the free use of a work on which copyright has ceased to subsist	Canadian Federation of Students
41.101 Add a positive obligation to facilitate circumvention for legal purposes (I.e. Require rights holders/parties holding keys to facilitate circumvention)	Laurel Russwurm; Stephen Salomons; Steven Splint; Brad Struble; James Cooper; Canadian Federation of Students; Michael Geist & Keith Rose
41.102 Establish an exception for circumvention for personal use	Michael Geist & Keith Rose; Brad Struble; Stephen Salomons
41.103 Establish an exception for preservation of digital materials/archival purposes	Stephen Salomons; Michael Geist & Keith Rose; Brad Struble; BattleGoat Studios; Canadian Association of Research Libraries
41.104 Add an exception for circumvention for purposes of protection of minors	Michael Geist & Keith Rose; Brad Struble
41.105 Establish an exception for filtering software	Brad Struble; Michael Geist & Keith Rose
41.106 Establish an exception for obsolete or malfunctioning TPMs	Stephen Salomons; Brad Struble; Michael Geist & Keith Rose

41.107 Establish an exception for access to court and government documents	Stephen Salomons; Brad Struble; Michael Geist & Keith Rose
41.108 Establish an exception for public domain works	Stephen Salomons; Brad Struble; Michael Geist & Keith Rose
41.109 Establish a labeling requirement to disclose the use of TPMs on consumer goods	Julia Mackay; Carl Plesz; Stephen Salomons; Brad Struble; Canadian Federation for the Humanities and Social Sciences; Michael Geist & Keith Rose
41.12 Interoperability exception should be restricted to the act of circumvention – should not apply to trafficking devices and offering services	Entertainment Software Association of Canada
41.12 Interoperability exception should not apply if the computer program made interoperable is an infringing copy	Entertainment Software Association of Canada
41.13(c) Eliminate the notice requirement	Michael Geist & Keith Rose; Brad Struble
41.14 Must be permitted to take steps, provide services, and make or import and sell products primarily intended for the protection of personal information	Canadian Civil Liberties Association
41.14(2) Remove the requirement not to “unduly” impair the TPM from the “Personal Information” exception	Michael Geist & Keith Rose; Brad Struble; Canadian Civil Liberties Association; Provincial Resource Center for the Visually Impaired
41.16(2) Remove the requirement not to “unduly” impair the TPM from the “Persons with Perceptual Disabilities” exception	Brad Struble; Canadian Civil Liberties Association; Canadian Library Association; Michael Geist & Keith Rose; Canadian Federation for the Humanities and Social Sciences; Provincial Resource Center for the Visually Impaired
41.2 Only an injunction should be available against an archive that circumvents a TPM and has reasonable grounds to believe that their circumvention was not prohibited.	Canadian Council of Archives; Association of Canadian Community Colleges
41.2 Ensure rights holders are not prevented from seeking injunctions to stop infringements	MapleMusic

<p>41.2 Permit a court to make an order blocking a pirate site (as is done by Article 8(3) of the EU Copyright Directive)</p>	MapleMusic
<p>41.2 Rights holders must be able to seek the full range of damages from a person who offers or provides a service to circumvent, remove, or render ineffective a TPM protecting a material form of the work, the performer's performance, or the sound recording and "knew or could reasonably be expected to know" that providing the service will result in an infringement of the copyright or moral rights.</p>	Association of Canadian Community Colleges
<p>41.21(3) Add an impartial review process for establishing new circumvention rights</p>	Art Orenburger; Stephen Salomons; Brad Struble; Michael Geist & Keith Rose
<p>41.22 Allow for individual solutions to digital rights management</p>	Professional Writers Association of Canada
<p>41.22 Definition of RMI should be limited to information provided by copyright owner or holder</p>	Council of Ministers of Education Canada; Canadian Council of Archives; Canadian Home and School Federation; Association of Canadian Community Colleges
<p>41.22 Add provision stating RMI may not be legally binding in Canada</p>	Council of Ministers of Education Canada; Canadian Council of Archives; Association of Canadian Community Colleges
<p>41.22 Removal or alteration of RMI should not be subject to remedies where information interferes unreasonably with an authorized display or reproduction</p>	Council of Ministers of Education Canada; Canadian Council of Archives
<p>41.22 Need remedies for removal/alteration of RMI</p>	Canadian Home and School Federation; Association of Canadian Community Colleges
<p>41.22 Need remedy if distribution is done with knowledge RMI has been removed/altered</p>	Canadian Home and School Federation
<p>41.22 Copyright owner/holder should be made subject to the same remedies for knowingly making false or misleading statements in</p>	Council of Ministers of Education Canada; Canadian Council of Archives; Canadian Home and School Federation; Ryan

RMI (injunction, damages, accounts, delivery up etc.)	Nicolson; Association of Canadian Community Colleges
41.22(2) Permit RMI to be altered to recognize the copyright ownership of alternate format producers	Provincial Resource Centre for the Visually Impaired
41.22(2) State that the removal or alteration of RMI is not an infringement of copyright where such information interferes unreasonably with the authorized display or reproduction of a copyright work or other subject matter	Association of Canadian Community Colleges
Minimize the ability of incumbent companies to rely on copyright for anti-competitive purposes i.e. vendor lock in (i-phone etc.)	Ryan Nicolson; Carl Plesz; Alex Savulescu; Steven Splint; Paul Cullum

PROVISIONS RESPECTING PROVIDERS OF
NETWORK SERVICES OR INFORMATION
LOCATION TOOLS

Clause 47: Section 41.25	
41.25 Replace “notice and notice” system with “graduated response” system	Canadian Federation of Musicians; Society of Composers Authors and Music Publishers of Canada (SOCAN); Creators Copyright Coalition
41.25 Replace “notice and notice” system with “notice and take down” system	Union des ecrivains quebécois
41.25(2) Should have to prove you are a copyright holder when issuing a take down notice	Carl Plesz
41.26(1) ISP obligations should come into force at the same time as their ability to recover the costs of those obligations	Business Coalition for Balanced Copyright
41.26(1) ISPs should have an obligation to filter illegal activities or retain information	Nicole Vachon
41.26(1) ISPs should be required to monitor and report copyright violations	Association des producteurs de films et de television du Quebec
41.26(1) Clarify ISP requirements under “notice and	Business Coalition for Balanced Copyright;

notice” system i.e. Onus of proof required for ISP to be liable under s. 27.2(3); Definition of different kinds of suppliers offering services	Barreau du Quebec
41.26(1)(b) Require ISPs to retain any records related to a claimed infringement for a period of at least 5 years from the date of the notice of claimed infringement is received.	Society of Composers Authors and Music Publishers of Canada (SOCAN)
41.26(2) Provide that fees to paid related to notices forwarded by ISPs at the request of a rights holder be borne by the rights holder	Council of Ministers of Education Canada; Association of Canadian Community Colleges
41.26(2)-(4) Give judges discretion to impose damages for failure of ISPs to comply with “notice and notice” system	Business Coalition for Balanced Copyright
41.27(1) Specify that the injunctive relief available against information location tools should be limited to the removal of the allegedly infringing content form their services	Business Coalition for Balanced Copyright
41.27(1) Hold ISPs accountable financially for illegal content	Coalition of Internet music rights holders (CAMI); Union des artistes, the Quebec Musicians’ Guild and Artisti; Professional Writers Association of Canada; Association des producteurs de films et de television du Quebec
41.27(1) ISPs should not be liable for client actions	William McGrath; Ian Williams
41.27(1) Add provision stating that failure to establish lack of knowledge of copyright infringement, to comply with a notice of copyright infringement or a request to take down the copyright infringing material, may constitute authorization of such infringement, and result in the ISP bearing joint and several liability with the copyright infringer and/or enabler.	Society of Composers Authors and Music Publishers of Canada (SOCAN)
41.27(1) Sanctions against enablers should be the same as those against infringers	Society of Composers Authors and Music Publishers of Canada (SOCAN)
41.27(1) Need to impose fines on parties who issue	Ryan Nicolson

take down notices to ISPs when they hold no copyright on material they are sending notice about.	
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**PART VII COPYRIGHT BOARD AND
COLLECTIVE ADMINISTRATION OF COPYRIGHT**

Sections 66-78	
Enable the Copyright Board to continue to intervene to set tariffs	Société des auteurs de radio, télévision et cinéma; Society of Composers Authors and Music Publishers of Canada (SOCAN)
Clarify the jurisdiction, royalties and reporting requirements for alternate formats related to Collective Societies	Provincial Resource Centre for the Visually Impaired
Should not maintain collective licenses for educational institutions under current <i>Act</i>	Ryan Nicolson
The existence of a license should be considered in determining whether a dealing is fair	Association of Canadian Publishers
Should not minimize the right of fair dealing collective licensing	Dr. Meera Nair
Maintain collective licenses	Don H. Meredith; Société des auteurs de radio, télévision et cinéma; Société québécoise de gestion collective des droits de reproduction (COPIBEC); Society of Composers Authors and Music Publishers of Canada (SOCAN); Creators Copyright Coalition; Canadian Educational Resources Council; ‘Writers on Bill-C32’; Writers Union of Canada; Association of Canadian Publishers; Barreau du Quebec

PART VIII PRIVATE COPYING

Sections 79-82 Amend ss. 79, 80, 81, 82 of current Act to include authors of works of all categories and define digital memory along with blank audio recording medium	Union des écrivains québécois
Sections 79-88 Establish a general royalty regime for private copies	Union des consommateurs; Canadian Federation of Musicians
Establish a levy for ISP accounts	Union des consommateurs; ‘Writers on Bill-C32’
Extend levies to digital media/new devices	Ole; Société des auteurs de radio, télévision et cinéma; Robert Morrow; Society of

	Composers Authors and Music Publishers of Canada (SOCAN); Creators Copyright Coalition; Canadian Private Copying Collective; Coalition of Internet music rights holders (CAMI)
Fix the technical problems in the Bill that would require additional copyright charges to be paid by cloud computing and network PVR services	Business Coalition for Balanced Copyright
Eliminate levies for private use	Ryan Nicolson; Kevin Schneider; James Cooper
Should not extend levies to other devices	Nancy Pardoe; Retail Council of Canada

**PART IX
GENERAL PROVISIONS**

Clause 58: Section 92 Review Bill annually/periodically	Laurel Russwurm; Don Walsh
92 Review digital locks provisions every 2-3 years	Jesse Betteridge
92 Review provisions regarding ISPs and other providers of network services or information location tools every 3 years	Society of Composers Authors and Music Publishers of Canada (SOCAN)
92 Review statutory damages every 5 years to increase/decrease by same degree as prices for copyrighted work copies	Daniel AJ Sokolov

TRANSITIONAL PROVISIONS

Clause 59	
Include transitional measures similar to s.58.1 of the <i>Act</i> amending the <i>Copyright Act</i> , 1997	Union des artistes, the Quebec Musicians' Guild and Artisti

ADDITIONAL AMENDMENTS & SUGGESTIONS

Copyright Awareness

Need to provide education on copyright	Nicole Vachon; Artists' Legal Outreach and Education Society
Make the Bill more clear to ensure citizens understand what behaviour is permissible and prohibited	Chris Brand

Privacy

Any copyright protection must fully	Grant Willison
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comply with current Canadian privacy law	
Prohibit monitoring of Internet files without a court order	William McGrath

Exceptions & Contract

Add provision confirming that exceptions cannot be overridden by contract or otherwise	Pascale Chapdelaine
Add provision stating that users cannot waive the rights conferred onto them by exceptions in the <i>Act</i>	Union des consommateurs
Add provision stating that in disagreements between the proposed <i>Act</i> and a contract which limits the production, the <i>Act</i> shall prevail	Grant Willison

Copyright Act and Status of the Artist Act (SAA)

Resolve overlap between SAA and Copyright Act by either: a) Adding a provision stating all matters relating to copyrights should be regulated by provision of <i>Copyright Act</i> , to the exclusion of any SAA application; or b) Removing the Exhibition Right from the <i>Copyright Act</i> (and it would be negotiated under SAA).	National Gallery of Canada
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Remuneration of Copyright Owners

Create system of digital cultural content use	Association des producteurs de films et de television du Quebec
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Rights Holder's Rights

Eliminate automatic copyright	Heather Morrison
Copyright should not be transferable to corporations; at minimum corporations should be limited to licensing copyright for a limited time	Laurel Russwurm
Rights to derivative works should be revoked	James Cooper
Allow derivative works that add significant new value and creativity to be made without a license	James Cooper
Add an artists resale right	Regroupement des artistes en arts visuels du Quebec; Canadian Artists' Representation
Make it possible to place work directly into public domain	Heather Morrison
Protect the creator's right to share	Laurel Russwurm
All Canadian literature should be placed	Laurel Russwurm

online	
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