



## Education Organizations Need Clarity in Canada's New Copyright Law

Education organizations are asking the federal government to change the existing copyright law in order to make it clear that educational use of publicly available Internet material is not an infringement of copyright. The Canadian copyright law needs to be changed because the law is not clear about the extent to which teachers, students, and other educational users can legally engage in routine classroom activities such as downloading, saving, and sharing text or images that are freely available on the Internet.

The amendment being sought by education organizations deals only with the “free stuff” on the Internet — material posted there by the copyright owner without password protection or other technical restrictions on access or use. This material is posted on the Internet with the intention that it be copied and shared by members of the public. It is publicly available for anyone who wants to use it. The problem is that the current copyright law may not protect schools, teachers, or students, even when they are making routine educational uses of this “free stuff.”

Educational institutions and the students, teachers, and staff that work in them, use the Internet in unique ways that may infringe copyright — even though many individual uses of the same material might be allowed under the Copyright Act. This legal uncertainty necessitates a change to the Copyright Act. There needs to be legal clarity about the use of publicly available Internet material for educational purposes.

The Copyright Act provides rights to people who create copyrighted works — music, art, photographs, movies, books, and magazines, for example. These legal rights allow copyright owners to control who uses their works and to collect royalties for their use. These rights extend to allowing or refusing permission to make copies or communicate material over the Internet — downloading, saving, and e-mailing, for example.

The Copyright Act also provides rights to users of copyright works — teachers, students, educational institutions, and school libraries, for example. There are two kinds of “users’ rights” in the Copyright Act: specific and general. There are a number of specific users’ rights, for example, the right to reproduce a work protected by copyright for tests and examinations. An example of a general users’ right is “fair dealing,” which is available to any user, not just someone involved in education.

For a number of years now, several national education organizations have been asking the federal government to amend Canadian copyright law to introduce a new specific users’

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right saying that educational use of publicly available Internet works does not infringe copyright. The Council of Ministers of Education, Canada is one of the education organizations supporting this amendment.

The education amendment has many supporters in Canada's education community. It is being championed by the Association of Canadian Community Colleges (ACCC), the Canadian Association of Research Libraries (CARL), the Association of Universities and Colleges of Canada (AUCC), the Canadian Teachers' Federation (CTF), the Canadian School Boards Association (CSBA), the Canadian Home and School Federation, and the Copyright Consortium of the Council of Ministers of Education, Canada (CMEC), which is made up of the provincial and territorial ministers of education in every province and territory except Quebec.

All these education organizations accept the principle that many individual uses of such works may be users' rights under the Copyright Act. However, they collectively agree that the law is not clear about whether some educational uses of publicly available Internet material can occur without permission or payment. Examples of the kind of educational use that is surrounded by legal uncertainty is the making of multiple copies of an entire work like a photograph or article found on the Internet for all of the students in a class, or posting an item from the Internet on a class Web site.

The education amendment is necessary to clarify the law so that students and teachers can have the assurance that they will not infringe copyright law when they engage in routine uses of publicly available Internet works for educational purposes.

*\*\*\* The Council of Ministers of Education, Canada is producing a series of Bulletins on the education amendment. Future instalments will explain why other provisions in the Copyright Act don't solve the problem and why students and teachers need a specific users' right dealing with publicly available Internet material.*