

Copyright Changes to Permit Educational Use of the Internet

In June 2010, the federal government introduced legislation to modernize Canada's copyright law. Bill C-32, the *Copyright Modernization Act*, proposes an important amendment for education that would permit teachers and students to use the Internet for educational purposes. The "Internet amendment" is important because the current copyright 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, or sharing text, images, or videos that are publicly available on the Internet.

The Internet amendment deals only with "publicly available material" — material posted on the Internet by the copyright owner without password protection or other technical restrictions on access or use. Most of 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 current copyright law may not protect schools, teachers, and students when they are making routine educational uses of this publicly available material.

Educational institutions and the students, teachers, and staff who 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*. Examples of the kind of educational use that is surrounded by legal uncertainty are making multiple copies of a work such as a photograph or an article found on the Internet for all students in a class, playing an on-line video for students in a classroom, and posting an item from the Internet on a class Web site.

This legal uncertainty leaves the educational community open to claims of copyright infringement and statutory damages by copyright owners who may want payment for the use of publicly available Internet works, even though they have taken no steps to protect these on-line works. The *Copyright Act* needs to be changed to provide legal clarity about the use of publicly available Internet material for educational purposes.

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

For a number of years now, several national education organizations have been asking the federal government to amend Canadian copyright law to state clearly that the educational use of publicly available Internet works does not infringe copyright. The

CMEC Copyright Consortium is one of the education organizations that supports this amendment.

The Internet amendment has many supporters in Canada's education community, including the Association of Canadian Community Colleges, the Association of Universities and Colleges of Canada, the Canadian Association of Research Libraries, the Canadian Home and School Federation, the Copyright Consortium of the Council of Ministers of Education, Canada, which comprises the provincial and territorial ministers of education in all provinces and territories except Quebec, the Canadian School Boards Association, and the Canadian Teachers' Federation.

All these organizations support Bill C-32 because it strikes a fair balance between the rights of creators and users of copyrighted works and because it will facilitate on-line learning. Rapid advances in on-line learning call for a modernized *Copyright Act* that serves the public interest by permitting reasonable access to and use of publicly available Internet materials for education, teaching, research, innovation, and the dissemination of knowledge. National education organizations have long maintained that a modern and balanced copyright framework will protect the public interest. By enacting balanced copyright legislation, addressing the needs of students and teachers, as Bill C-32 has accomplished, and making other much-needed updates, our country now has an extraordinary opportunity — with this copyright legislation — to enhance learning opportunities for generations to come.

**** The CMEC Copyright Consortium is producing a series of information notes on Bill C-32, the Copyright Modernization Act. Future installments will discuss other much-needed updates proposed in Bill C-32 that affect students and teachers.*