



### **Changes to the Copyright Law Must Include An Amendment to Address Educational Use of the Internet**

In the federal government's attempt to modernize our country's copyright laws, it must address the educational use of the Internet. Teachers, students, and schools — elementary, secondary, colleges, and universities — need an amendment to the Copyright Act allowing them to use material on the Internet that is publicly available for anyone to use, without being afraid they are breaking the law.

Sound like a no brainer? Well, it isn't. Copyright protection is automatic in Canada. That means that images, photographs, music, and print material like books, magazines, and even e-mail messages, are automatically protected by copyright by the simple act of creating them. Under the Copyright Act, creators automatically receive a number of legal rights to control what they create. In most cases, anyone who wants to use the material must request permission and pay royalties if asked. The rights provided in the Copyright Act include allowing or refusing permission to make copies or communicate material over the Internet — downloading, saving, and e-mailing.

The result is that schools, teachers, and students need the permission of rights holders — and can be required to pay royalties — for some educational uses of material on the Internet. These rules apply even to “free stuff” on the Internet. “Free stuff” refers to material posted on the Internet by the copyright owner without password protection or other technological restrictions on access or use. “Free stuff” is posted on the Internet with the intention that it be copied and shared by members of the public using the Internet. It is publicly available for anyone who wants to use it, but the current copyright law may not protect schools, teachers, or students even when they are making normal educational uses of this “free stuff.”

This is the crux of the issue and the reason why the education community is asking for a legal framework clearly laid out in the new Copyright Act. Canadian students and teachers may be infringing current copyright by downloading, printing, and sharing Internet files in their classroom or in completing their course work.

Therefore, the federal government needs to change the Copyright Act to make it clear that this “free stuff” is available for all educational uses. This change is being referred to as the “educational use of the Internet amendment.” (You are soon going to be hearing a lot about this amendment in the media as proposals to change the Copyright Act make their way through Parliament.) The education community views this amendment as an essential piece of modernizing Canada's copyright laws to reflect the new realities of our digital world.



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The education community is not asking for — nor does it expect — a free ride. Educators respect the right of copyright owners to say how their material is used and to be compensated for that use. So the proposed education amendment has conditions to protect the legitimate interests of rights holders. First, the material must be posted on the Internet with the consent of the rights holder. If the educational user knows, or has reasonable grounds to suspect, that the owner has not consented to its use for educational purposes, the material can not be used without permission. Second, rights holders can opt out of the amendment by using passwords or technology that limits access or use of the Internet material. Rights holders can also opt out by informing Internet users that the material cannot be used for educational purposes. Third, the amendment applies only to educational uses that take place under an official program of learning, provided by a school, college, or university.

The amendment proposed by the education community addresses the educational use of the Internet in a balanced way, respecting both the rights of the copyright owners and creators and the needs of the user community — Canadian schools, teachers, and students.

*\*\*\* The Council of Ministers of Education, Canada (CMEC) is producing a series of information notes on the education amendment. Future instalments will explain why the educational use of the Internet amendment is urgently needed and why other provisions in the Copyright Act don't solve the problem.*