



Parliamentary Briefing Note

Prepared by the Public Interest Advocacy Centre for the Canadian Consumer Initiative

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Consumers and Copyright

The Issue

The consumer position on Bill C-11 (an Act to Amend the Copyright Act) can be summed up in three sentences:

1. **Balanced laws must protect reasonable consumer expectations and normal consumer practices with copyrighted music, films, books and other material.**
2. **Suing consumers should not be encouraged by law as a business model.**
3. **Digital locks should not prohibit practices that are otherwise lawful.**

Protect Reasonable Consumer Expectations

Many facets of today's *Copyright Act* run counter to the interests of Canadian consumers and do not reflect the realities of the Canadian marketplace. Canada needs to bring its current copyright laws into step with the ways consumers access and use copyrighted materials.

Balanced copyright means recognizing that consumers enjoy a sphere of privacy and autonomy in how they enjoy their lawfully acquired content. Music and movies now move seamlessly from a purchased disc to a home computer to an entertainment centre to a laptop to an iPod and to a smartphone. Current copyright law is out of step with reality: it does not allow this "media shifting". The choice of when, where, and how to privately enjoy lawfully acquired content should also lie with the consumer in law.

We are pleased that Bill C-11 offers changes to copyright law that recognize this principle. Specifically:

- (1) Bill C-11 clarifies the legality of **time, space, and format shifting**;
- (2) Bill C-11 expands **fair dealing** rights to encompass **education, parody and satire**;
- (3) Bill C-11 expands **back-up rights**; and
- (4) Bill C-11 recognizes that **user-generated content** is a feature of digital culture, not a flaw.

We strongly support these changes, which reflect reality and balance the interests of creators of content, rights-holders interests and consumer use and enjoyment of lawfully acquired content in non-commercial settings.

THE CANADIAN CONSUMER INITIATIVE is a coalition of four major Canadian consumer organizations: Consumers Council of Canada, Option consommateurs, Public Interest Advocacy Centre and Union des consommateurs.

L'INITIATIVE CANADIENNE DES CONSOMMATEURS est une coalition formée des plus importantes associations de consommateurs au Canada, soit le Conseil des consommateurs, le Centre pour la défense de l'intérêt public, Option consommateurs et l'Union des consommateurs.

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Don't Encourage Suing Customers as a Business Model

Rational copyright laws should not encourage lawsuits. Mass litigation targeting average consumers is not a sustainable or fair business model. Litigation diverts resources away from the marketplace and consumes scarce judicial and taxpayer resources. Consumer respect for copyright law is eroded by consumer lawsuits.

Copyright law needs to target bad actors who seek profit through piracy. The law should not confuse using digital infrastructure with piracy.

Bill C-11 is an attempt to discourage suing average consumers for punitive levels of damages while it appropriately targets commercial piracy:

- (1) Bill C-11 encourages rights-holders to address online infringement by **targeting businesses that intentionally profit from the active promotion of piracy**;
- (2) Bill C-11 **rationalizes statutory damages** to encourage enforcement of commercial copyright;
- (3) Bill C-11 **protects the Internet's infrastructure** – content hosts, service providers and search engines – **from inappropriate copyright litigation**.

Don't Lock Consumers Out of Their Rights

Digital locks should not prohibit practices that are otherwise lawful. Normal consumer uses of copyrighted material should not become unlawful simply because a distributor has chosen to implement digital locks.

Bill C-11 is overly strong in protecting digital locks, including “access” control locks. C-11 goes too far towards the interests of content distributors in the balance between digital locks and the rights of average consumers, downstream creators and innovators. In reality, the strength of the “access” controls undermines almost all of the consumer rights Bill C-11 otherwise promises to consumers.

Consumers want a digital locks law that reflects the careful balance of rights and interests already in the *Copyright Act* and also found in the rest of Bill C-11: digital locks should not trump lawful dealings with content.

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