

## Copyright bill reintroduced in identical form

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By Emily Chung

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Industry Minister Christian Paradis (above) and Heritage Minister James Moore unveiled the details of the new copyright bill at a news conference on Thursday morning. Sean Kilpatrick/Canadian Press

The federal government believes it has struck a balance between the needs of consumers and creators alike with the reintroduction of the exact same copyright bill that died when the federal election was called last spring.

Industry Minister Christian Paradis and Heritage Minister James Moore unveiled the details at a news conference on Thursday morning, following the tabling of the legislation in the House of Commons at 10 a.m.

"The Copyright Act has not kept pace with the breakneck speed at which digital technologies are being developed and entering the market," Paradis noted. "Our current law was designed years before smartphones became an everyday tool for most Canadians and before MP3 players changed the way we listen to our favourite artists. It is older than most of the technologies we use today."

"Canadians will soon have a modern and responsive copyright law for the digital age that protects and helps create jobs, promotes innovation, and attracts new investment to Canada," Paradis said. "Balanced change is long overdue."

Moore indicated in early September that the government planned to reintroduce the copyright bill in exactly the same form as the legislation that died when the last session of Parliament ended in the spring, the former Bill C-32. At that time, Moore indicated that the government wants to pick up where it left off in the last session, and the legislative committee studying the bill will not be inviting groups that have already commented to appear before the committee again.

"We didn't alter a comma," Moore insisted again Thursday, noting the huge investment of time that already had been made by stakeholders and

parliamentarians on the previous bill. "We do want quick passage of this legislation."

Moore noted that the legislation follows one of the "largest consultations of its kind in Canadian history," including testimony from 75 witnesses.

The heritage minister emphasized the growing importance of digital technologies to the Canadian economy as a whole. "This legislation will make it clear to everyday Canadians that technology is at their disposal and free to be used," Moore reassured, giving examples of format-shifting and time-shifting technologies that had become a grey area in the past.

"It also makes sure that piracy is illegal in Canada, and it also makes sure that creators have a right to protect their property with digital locks and digital protection measures," Moore maintained. "It is indeed legislation that is balanced between the interests and needs of creators and consumers."

### **P.O.V.**

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"Canadians will not be penalized for transferring their favorite novel or album onto their mobile device," Paradis confirmed. "They now will be able to upload the content they have created, like mashups, to internet sites without facing punishment."

Michael Geist, a University of Ottawa law professor who specializes in internet law and has a strong interest in copyright, said the government's approach "sends a strong message that the government thinks they struck the right balance" between consumers and creators in the way it was introduced before.

Shortened hearings expected

He believes the government will significantly shorten the hearings, especially since the Conservatives will now form the majority on the committee and opposition MPs will no longer be able to slow the process down.

### **Consumers and copyright**

The previously introduced copyright bill, C-32, would have given consumers new rights to:

- Record TV, radio and internet broadcasts to enjoy at a later time.

- Copy songs and other content they have bought to devices they own, such as MP3 players.

- Create backup copies of songs and other content they own.

Use copyrighted materials to create a parody or satire under fair dealing.

Use copyrighted materials they have legitimately acquired to create user-generated content for non-commercial purposes. For example, users could post a home video of friends dancing to a popular song and post it online.

However, they would not be able to exercise these rights if doing so required the circumvention or breaking of a digital lock.

However, he noted that there are groups that the government has yet to hear from and there has been widespread controversy over some parts of the bill. In particular, many groups are concerned about provisions dealing with digital locks or technical means of "copy protection." Bill C-32 would have made it illegal to break or circumvent digital locks for any reason, even to exercise other rights under the Copyright Act.

Geist and many other advocates believe it should be legal to circumvent digital locks for legal purposes.

"Whether the Conservatives are willing to go that far now, we don't know," he said.

Victoria Owen, chair of the copyright committee for the Canadian Library Association, said Bill C-32 was introduced following extensive public consultations and included some positive changes. She cited the inclusion of education, parody and satire under fair dealing provisions that allow people to freely use some copyrighted material under certain circumstances.

However, she is also concerned about the digital lock provisions. She said they would prevent people from legally using material under fair dealing and will also prevent libraries, archives and museums from making copies of copyrighted works such as movies for the purposes of preserving them in the public interest.

Critics optimistic

"I have confidence that when the government understands, we should be able to circumvent for non-infringing purposes," she said.

But in order to make sure the government does understand, she believes her group, which made a presentation to the previous legislative committee on copyright in March, needs to appear before the committee again – something it appears will not happen.

Graham Henderson, president of Music Canada, a group that represents Canada's four largest record labels, said his group also perceived some flaws in the previous bill, but has confidence in the parliamentary process.

"We support the intent of government, we understand what they're trying to accomplish here," he said, "and in this case, we're confident that having heard testimony of countless witnesses and having had their attention directed to various technical amendments that are necessary to bring the bill into harmony with stated government policy, that they will make technical amendments."

In particular, Henderson is concerned about how the bill dealt with online music and video file-sharing services such as Bittorrent, Pirate Bay and Isohunt, which his organization believes are stealing revenues away from creators.

He added that while the government has said it will crack down on such services, the previous copyright legislation included some unintended loopholes.

"These are important issues, but the fixes themselves are minor and technical in nature," he said.

NDP technology critic Charlie Angus said the government knows there were problems with that previous bill.

"They've told me that many times," he said.

But he said it remains to be seen how they will be dealt with.

"Either they'll amend it in the amendments phase or they'll try and push it through. We shall have to see," Angus said. "I've told them from the beginning we can get copyright through and we need to get it through, but if we're going to get it through, we need to have a co-operative approach."

Liberal heritage critic Scott Simms said he's concerned with the proposed approach because there is a new industry minister involved and new members of the committee studying the bill.

"To assume the committee can just pick up where it left off is a little premature," he said.

"We have listened during the hearings of the previous committee in meetings with stakeholders," Paradis said Thursday. "We will make any technical fixes necessary to achieve our objectives."