

Cultural Industries Speaking Notes
Press Conference [*Check against delivery*]
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CLAUDE BRUNET

Bonjour. Je m'appelle Claude Brunet et je suis avocat chez Ogilvy Renault. I am here to introduce you to 4 members of the cultural industry who amongst thousands of creators and copyright owners in this country have issues with Bill C-32 on copyright as proposed by our current government. This morning this statement paper was released with the support of almost 90 cultural organizations calling on the government to work with them to make changes to this Bill. This statement can be found on the website at www.c32jointstatement.ca

Le projet C-32 menace directement le gagne-pain des Canadiennes et des Canadiens qui nous divertissent et qui créent les contenus que nous utilisons chaque jour. Le projet doit être amendé pour enlever cette menace. Mais laissez-moi tout de suite vous présenter notre première artiste.

Sophie Milman is a Juno Award-winning recording artist. She has topped the iTunes jazz charts in six different territories and has attracted sell-out audiences around the world. In Canada, she has headlined jazz festivals across the country, sold out Massey Hall on two different occasions, and performed for a crowd of more than 75,000 people at the Montreal Jazz Festival. Her fourth album is scheduled for release this fall on the Canadian owned E1 music label.

SOPHIE MILMAN

I would like to talk about the real dangers that Bill C-32 poses to all Canadian artists trying to earn a living from their craft.

Canada's \$46 billion dollar Arts and Culture Industries and more than half a million jobs they support, can only thrive in an environment where intellectual property – the heart of the digital economy – is safeguarded.

The whole purpose of copyright is to protect creators and their work. Bill C-32 turns this principle on its head by ripping away many of the rights that we have long relied upon, making it that much harder to make a living from our work.

Bill C-32 must be fixed to ensure that we creators are able to benefit from our work.

Two particular issues that concern me: reproduction for private purposes and user generated content.

The private copying levy must be updated to apply to digital devices developed, manufactured and marketed to copy music. The existing levy has put over \$200 million dollars in the pockets of more than 97,000 songwriters, composers, performers and other rights holders. But revenue from the levy is drying up at an alarming rate as CDs become increasingly obsolete as a medium for copying music.

Bill C-32 also significantly expands the concept of private copying “for private purposes” without building on existing collective licensing regimes that ensure that remuneration for use flows to creators and artists.

I want fans to be able to listen to my music anytime, anywhere. But copies have value and artists must be compensated for those copies.

Second – the so-called YouTube exception for user-generated content. I get it. The idea behind this is to let people post videos of their kids dancing with pop songs as a backdrop. This sounds pretty harmless. But the problem is, this provision is so badly worded that it would also allow someone to take an entire movie, make a few edits and then post it on YouTube as a “new creation”. Copyright owners want to develop new business models for the use of their content. But C-32 would simply wipe out our rights. The only one who will benefit from this is YouTube, who would be guaranteed sources of endless free content, to drive its advertising sales.

I've been involved in this process for over a year now and it's been incredibly frustrating. I have people – left, right, and centre – telling me that artists will and should continue creating because we are passionate about what we do. But, aren't most people who work? Does that justify stripping us of our rights? The key difference between us and other passionate professionals is that our work can be so easily copied – a child can do it! But, it is a key economic principle that there must be financial incentives for people to work, and in our case to create.

The property rights of every Canadian are protected by our laws. When it comes to artists, our songs and recordings are our property, and often the only property of real value. Our rights must be protected as well. The bill, as it currently stands, sends the following message: though people derive great benefit from our work, by copying our music to their MP3 players and creating user generated content, we should not be compensated! This bill essentially tells us that our work has no value. How are we expected to continue creating under these circumstances? And what would Canada be without its creators?

CLAUDE BRUNET

Thank you Sophie.

Our next speaker is Mr. Jean Bouchard. Jean is the general manager of Groupe Modulo. Modulo publishes French educational resources for Kindergarten to Grade 12, CEGEP, and university. It produces resources for all provinces in French first language and French Immersion.

Modulo is part of Nelson Education Ltd. which is Canada's leading educational publisher providing innovative products and solutions for learners of all ages. Mr. Bouchard.....

JEAN BOUCHARD – en français

Le projet de loi C-32 inclut une longue liste de nouvelles exceptions qui font échec à la protection du droit d'auteur et elles vont déstabiliser l'industrie canadienne et québécoise de l'édition pédagogique. Il est essentiel pour la vitalité de cette industrie que le projet de loi C-

32 soit amendé en conformité avec les principes internationaux applicables en matière de droit d'auteur. Le défaut d'agir ainsi, compromettrait un élément important de notre héritage culturel de même que le succès scolaire des étudiants canadiens.

La plus préoccupante de ces nouvelles mesures est l'élargissement de l'« exception relative à l'utilisation équitable », qui permet déjà cinq types d'utilisation d'œuvres sans permission et sans frais, à l'utilisation à des fins d'éducation. Cette extension du concept d'utilisation équitable pourrait dispenser les établissements d'enseignement de l'achat des œuvres originales.

Dans ces conditions, qui investira pour produire des contenus organisés, selon les programmes ou les progressions des apprentissages établis par nos ministères de l'Éducation et validés scientifiquement ? Quels auteurs accepteront de travailler à l'élaboration de contenus propres à la culture canadienne et québécoise, s'ils ne peuvent en retour équitablement recevoir les droits d'auteurs rattachés à leur travail ? Cette mesure affaiblira considérablement le développement de manuels scolaires par et pour les Canadiens et tuera aussi une expertise dynamique et reconnue internationalement en création de matériels didactiques.

Les éditeurs de manuels scolaires canadiens fournissent un contenu qui répond aux exigences des programmes promulgués par les ministères de l'Éducation du pays. Ils favorisent donc l'implantation de ces programmes et permettent que les étudiants sur un vaste territoire reçoivent une formation équivalente et conforme aux programmes.

Enfin, les éditeurs de manuels scolaires, scientifiques et techniques sont les plus grands acheteurs de droits d'auteur (œuvres littéraires, photographies, illustrations, dessins techniques, etc.), ce qui en fait l'une des sources importantes de revenu pour les autres ayants droits.

Dans ces circonstances, le Canada peut-il vraiment se permettre que les éditeurs de matériel didactique cessent d'investir les millions de dollars nécessaires à la recherche et au développement de ressources éducatives québécoises et canadiennes ?

Les éditeurs de manuels scolaires investissent présentement pour développer des moyens d'enseignement, qui permettront aux formateurs d'utiliser toutes les possibilités des nouvelles technologies numériques. Si le projet de loi C-32 est voté en l'état, ces investissements diminueront considérablement, faute d'un modèle économique prévisible et stable.

De plus, C-32 néglige de reconnaître l'impact prévisible sur le livre de la convergence des technologies de liseuses. Il doit donc inclure les industries de l'édition dans tout système de redevances ou de compensation pour la copie privée sur tout support numérique actuel et à venir.

Si la viabilité économique des éditeurs canadiens est fragilisée, ce sera avec des manuels étrangers que nos élèves canadiens seront formés!

JEAN BOUCHARD – In English

Bill C-32 comprises a long list of new exceptions to the protection of copyright. These exceptions will have the unintended consequence of destabilizing the educational publishing industries in Canada and Quebec. It is essential to the health of the publishing industry in Canada that the current draft legislation of C-32 be revised in accordance with internationally accepted principles of copyright, or we risk the impairment of an important element of our cultural heritage, and the educational success of Canadian students.

Most alarming of these new and expanded exceptions is the one that adds “education” to the existing five permitted purposes under fair dealing. Fair dealing is the right to use copyrighted materials without permission or payment to the copyright holder. This could exempt educational establishments of the purchase of original works.

Under such conditions who will invest in the production of organized and scientifically validated content, in compliance to curricula or specific learning resources required by our ministries of education? Which authors will agree to work on the development of content suitable for the Canadian and Québécois culture, if they cannot in return receive fair royalties for the use of their work? This new exception will severely undermine the development of teaching resources currently done by and for Canadians.

Canadian publishers provide content organized to meet the curricula promulgated by the ministries of Education of all provinces of Canada. They support the implementation of curricula and the development of students to ensure that they receive a consistent education in conformity with the curricula.

Finally, educational and scientific publishers are the biggest investors in copyrighted materials from other sources (literary works, photos, illustrations, technical drawings, etc.) making them an important revenue source for other right holders.

Under these circumstances, our country cannot afford having our textbook publishers cease their millions of dollars’ research & development investments in Canadian French and English educational materials.

Textbook publishers are currently investing money and efforts to develop learning tools that will allow Canadian educators to take advantage of the power of new digital platforms. If Bill C-32 is ratified as written, these investments will be vastly diminished for lack of a foreseeable and stable economic model.

Furthermore, C-32 fails to recognize that the publishing industries will be strongly impacted by the convergence of reader technologies and should be included in a private copy levy on all current and future digital supports.

If the economic viability of Canadian publishers is weakened, it will be with foreign teaching resources that our Canadian students will learn!

CLAUDE BRUNET

Next we have Alan Cumyn. He is the author of 10 wide ranging and often wildly original

novels. A two time winner of the Ottawa book award, he has also been a finalist for the Giller Prize and the Trillium award. His work for children has won or been short listed for 12 national awards. Alan is the Chair of The Writers' Union of Canada.

ALAN CUMYN

Good morning! Copyright is at the heart of how I make a living. The short stories and novels I write are my intellectual property. Bill C-32 threatens my ability to make a living from the use of my own work.

In November, hundreds of Canada's most prominent writers signed a full-page ad in *The Globe and Mail* registering serious concern with the new copyright bill. I speak today for thousands of professional writers from across the country. But I – we – also speak for thousands more – many of whose jobs will be profoundly affected or at risk if copyright protections are allowed to be eroded by this proposed legislation.

I get a share of the proceeds of my book sales, but right now I also get paid when a university professor or school teacher copies portions of my work for classroom use. A system of collective licensing makes this possible, where it would be completely impractical for me to try to do it myself. But Bill C-32 threatens to undermine collective licensing by introducing an education exception for copying under something called "fair dealing."

This exception is but one of many disturbing new provisions in the bill. The recent disagreement between CBC and the Conservative Party over whether CBC news clips can be used in political attack ads has to do with "fair dealing" and something else called "moral rights", the right of the creator to retain control over his or her work. If their lawyers can't figure it out, how is a teacher in Moose Jaw, Saskatchewan supposed to figure out how many copies, and how much of my book she will be able to copy for free? We fear that this potentially huge education exception will be read as an open invitation for educators to copy, without payment, much more than they currently do. Must we all be forced to go to court to establish the limits?

No one else is being asked to subsidize education in this way. Schools and universities will still pay for the paper and the photocopying and scanning equipment used to copy our work.

When teachers and Xerox work for free, then I will consider giving away portions of my work for free, too.

A lot of good, interesting, entrepreneurial jobs are at stake when you weaken copyright to the degree the proposed new law does. Writers, artists and other creators make the intellectual property that is the engine of the knowledge economy. The knowledge economy is not just a fancy phrase – it's a fact, it's the future unfolding right now in Canada. This proposed copyright law threatens to cut that future off at the knees.

CLAUDE BRUNET

Last but not least we have Ms. Nadia Myre. Nadia Myre is a multi-disciplinary visual artist from Quebec and a member of the Kitigan Zibi Anishinabeg. Over the past decade, Nadia has exhibited widely across Canada and internationally. She has served on panels and art juries

and is the recipient of numerous grants and awards. Her work can be found in private and public collections across Canada and abroad.

NADIA MYRE

Le projet de loi C-32 rate l'occasion de mettre en place le Droit de suite ce qui permettrait aux artistes en arts visuels de partager les profits gagnés sur nos œuvres. Cinquante-neuf pays dans le monde ont inscrit le Droit de suite dans leur législation, et nos partenaires européens demandent expressément que le Droit de suite s'applique au Canada.

Right now, an artist only benefits from the first sale of our work, but we all know that the full value of an artwork is often not realized on this first sale. Over time the cost of a piece of art can skyrocket and the creators see none of that profit. The Artist's Resale Right would fix that inequality by giving artists 5 per cent of the sale price every time our work is re-sold.

Les artistes autochtones, en particulier, sont perdants en regard des immenses profits réalisés grâce à leur travail sur le marché secondaire. Bon nombre d'artistes vivant dans des collectivités isolées du Grand Nord continuent de vivre dans la pauvreté alors que la valeur de leurs œuvres augmente radicalement sur le marché.

What's more, the Artist's Resale Right would be most helpful when it is needed most – at the end of our careers. Of all the senior artists I know, none has the financial means to retire. It would seem that after a lifetime of hard work and dedication one could expect some financial recognition. This is my greatest fear. That at the end of my career, I will have laurels and no bread.

CLAUDE BRUNET

Thank you Nadia. This statement is unprecedented. The message of close to 90 organizations, representing hundreds of thousands of Canadian authors and rights owners is this: Bill C-32 will devastate their rights. It is the wrong Bill, and it serves the wrong goals. Its message is "something for nothing" – something for users, nothing for artists. Artists and rights owners expect the same thing as every Canadian: value should be given when value is received. It is ultimately a matter of fairness. Let's fix this Bill!

At this point we would like to take your questions. In addition to the 4 speakers I would like to introduce you to 2 individuals who will assist with questions of a more technical nature, Ms. Helene Messier from Copibec and Mr. David Basskin from CMRRA.