

Canadian Library Association / Association canadienne des bibliothèques Position Statement on Regulations Related to Bill C-32 Library Exceptions and Parallel Importation

Approved by Executive Council ~ June 22, 1997

Overview

CLA's overall position on regulations related to libraries and Bill C-32 is that there should be as few regulations as possible. CLA believes that the federal government should permit libraries to implement Bill C-32 without a myriad of federal government bureaucratic encumbrances.

The focus of libraries and the federal government departments responsible for implementation of Phase II of copyright reform should be on copyright education so that all can understand and comply with Bill C-32. Should significant interpretational problems arise, the relevant parties should consult further for the purpose of resolving the problem, with the passage of optional regulations being but one solution.

There are two exceptions to this position. First, CLA acknowledges federal copyright law which requires the passage of mandatory regulations related to the affixing and locating of notices warning of infringement of copyright on library self-serve photocopiers. Second, CLA, while publicly stating that parallel importation is not a copyright issue, does expect, now that importation has passed as part of Bill C-32, that the federal government will implement regulations on the performance of exclusive distributors based on those agreed to by the Book and Periodical Council Task Force on Industry Guidelines.

CLA's Position on Specific Bill C-32 Regulations

1. Regarding Self-serve Photocopiers

30.3 (5) "The Governor in Council may, for the purposes of paragraph 1(c), prescribe by regulation the manner of affixing and location of notices and the dimensions, form and contents of notices."

- a. For non-profit libraries which do not have CanCopy licensing agreements, a single bilingual sign is sufficient to describe copying under Canada's amended Copyright Act.
- b. For non-profit libraries which have CanCopy licensing agreements, all of which require the posting of a sign describing copying permitted under the license, there only be one sign.
- c. The costs of new signage be borne by CanCopy or the federal government.
- d. The libraries' public must be aware that the law does permit exceptions from copyright for specific uses.

2. Regarding the Management and Maintenance of Collections

30.1 (4) "The Governor in Council may make regulations with respect to the procedures for making copies under subsection (1)." and [30.1 (2) cannot copy..."where commercially available in a medium and of a quality that is appropriate] and also "at a reasonable time, effort and price."

- a. Given that CanCopy licenses will regulate this activity, CLA sees no requirement for the development of regulations.

3. Regarding Copies of Articles for Research or Private Study for Any Person, and Acting on Behalf of a Patron of Another Library, Including Inter-library Loan

30.2 (6) regulations are optional for defining "a scholarly, scientific and technical periodical" as well as a "newspaper and periodical", for "prescribing the information to be recorded about articles and ILL, and the conditions set out for ensuring "research and private study."

- a. The language of the Bill is sufficiently clear regarding the kinds of materials that may be copied and the purposes for which they may be copied.
- b. Any regulations in this area would impose undue burdens on staff at all levels, either in ruling on definitions in individual instances or in keeping "just-in-case" records.
- c. Keeping extensive records of transactions related to copying of articles and ILL raises privacy issues as a result of associating a particular patron with a particular record.
- d. The requirement that the library be satisfied that the material being copied will be used only for research or private study must be met through signage and/or information brochures.

4. Regarding Parallel Importation for Exclusive Distributors

2.6 "The Governor in Council may make regulations establishing distribution criteria for the purpose of paragraph (b) of the definition "exclusive distributor" in section 2."

- a. CLA encourages the federal government to honor its commitment to enact as regulations the guidelines of the Book and Periodical Council Task Force on Industry Guidelines.