

Report on the Federal Government Copyright Consultation Calgary Round Table meeting

by Rob Tiessen

As outgoing chair of the Canadian Library Association 's Copyright Working Group, I was asked to represent CLA at the Calgary Round Table on Copyright on July 21, 2009. The Federal Government is consulting Canadians on [modernizing copyright in Canada](#). Part of the process includes Copyright Round Tables in Vancouver, Calgary, Winnipeg, Gatineau and possibly more locations.

The following organizations gave presentations at the Calgary Round Table:

- The Canadian Association of Broadcasters - Gary Maavara
- The Canadian Chamber of Commerce - Lee Webster
- The Canadian Library Association – Rob Tiessen
- The Canadian Publishers Council - Catherine Campbell
- Digital Alberta - Rene Smid
- The Retail Council of Canada - Peter Pilarski
- Shaw Communications - Cynthia Rathwell
- The University of Calgary Student's Union - Kay She

The following Government representatives attended the Calgary Round Table:

- The Honourable Tony Clement. Minister of Industry.
- Ms. Colette Downey. Director General - Marketplace Framework Policy Branch - Industry Canada.
- Ms. Barbara Motzney. Director General - Copyright Policy Branch - Canadian Heritage.
- Ms. Zoe Addington. Policy Advisor to Minister Clement -

All the Government representatives were very engaged in the process. Minister Clement asked many follow up questions to the participants.

The Canadian Library Association presented on the following points.

Fair Dealing:

- We would like to see the most important elements of the CCH Supreme Court Judgment incorporated in the Copyright Act.
- Canadians who act with a good faith belief that their actions with respect to a work are within fair dealing or are protected by some other user right should not be subject to statutory damages, similar to the provisions in section 504 of US copyright law.

Digital Locks

- CLA recommends that the government in implementing the WIPO treaties permit the circumvention of digital locks for non-infringing purposes.

The Perceptually Disabled

- Digital locks make it difficult for the perceptually disabled to use digital resources.
- Since 2004 the free flow of alternate format materials between Canada and the US has stopped. This has created many difficulties for the perceptually disabled. Many depended on the sharing of alternate format resources between the two countries for the information they need.
- Section 32 of the Copyright Act should be expanded to include any format that can be used by the perceptually disabled.

Internet Service Provider Liability

- CLA supports the notice and notice regime that the courts have established in Canada rather than adopting a US style notice and takedown regime.
- Many non-profit organizations serve as ISPs including many public libraries, school boards, universities and colleges. Changes to ISP liability rules will affect more than the big, commercial service providers.

I was pleased that most of the participants in the Calgary Round Table supported enhanced fair dealing. In retrospect participants could have mentioned the strong economic effects that a robust fair dealing policy can have. Just to mention two studies: 1) The US [Computer and Communications Industry Association](#) publishes studies showing how much a strong fair use regime boosts the US economy. 2) The [Gowers Review](#) in 2006, lamented that weak fair dealing provisions hurt the prospects for creative industries in the United Kingdom.

Another area where there appeared to be some common support was improving access for the perceptually disabled. In regards to Internet Service Provider liability, there was also some additional support for Notice and Notice as opposed to Notice and Takedown.

I was surprised that a couple of non library participants at the round table brought up electronic delivery of interlibrary loan and amendments to section 30.2 of the Copyright Act. In recent years, CLA has not asked for any changes to S 30.2. This is the part of the Copyright Act that allows libraries, archives and museums to act on behalf of their users in fair dealing. It has historically been used for things like interlibrary loan. We believe that the concerns that libraries used to have regarding this section were resolved by the CCH Supreme Court Judgment.

I did hear from a couple of participants the tired, old argument that Canada is somehow isolated and embarrassed, because it hasn't yet implemented the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. So far only three of the G8 countries have implemented these two treaties and many other countries have not implemented these treaties either. Parliament has plenty of time to consider the best way to ratify these treaties. There is no need to rush into implementation. We don't need to copy the mistakes that some other countries have made in their WIPO implementations.