



The Honourable Mélanie Joly, P.C., M.P.
Minister of Canadian Heritage

The Honourable Navdeep Singh Bains, P.C., M.P.
Minister of Innovation, Science and Economic Development,

House of Commons,
Ottawa, Ontario K1A 0A6
Canada

Friday 22nd April 2016

Dear Ministers,

The International Authors Forum is a network representing nearly 650,000 professional creators worldwide. Our members, 56 organisations representing authors, including The Writers' Union of Canada, L'Union des écrivaines et des écrivains québécois and the Canadian Authors Association, have noted with serious and growing concern the shocking impact upon Canadian authors' incomes of Bill C-11, also known as the Copyright Modernization Act.

The chain of consequences, albeit unintended, stemming from the Bill's implementation have brought to a virtual halt the operation of a secondary collective licensing system, which remunerated authors for the use of their works in schools and universities without putting an unfair financial burden on the educational budget. Since the introduction of 'education' to the fair dealing provisions in Canada's copyright law, the loss to Canadian authors stands at approximately \$30 million annually, meaning the continued production of such work is by no means sustainable. This will disadvantage not only authors but the education system and, importantly, Canadian students, who have so far not experienced any reduction in the cost of their education despite the supposedly cost-reducing effect of the revised fair dealing provisions and interpretation thereof. To the contrary, student media in Canada reports a huge increase in course pack costs as a direct result of collective licensing being dropped.

The latest decision by the Canadian Copyright Board to severely reduce the tariff used to compensate authors for the photocopying of their works in K12 schools will erode creators' incomes and Canadian educational publishing even further. We therefore urge you to do everything in your power to ensure this legislation is reviewed without delay, so that the appropriate balance between rights and exceptions, which it is the very purpose of copyright to strike, can be restored.

Authors' work represents and conserves Canada's unique and important cultural identity and helps to provide a high quality education to Canadian students. However, Canada is rapidly becoming a country whose laws and policies no longer support or appear to value the work of independent, professional authors. Canada's cultural standing, as well as its world-class educational standards, are at grave risk. Indeed, internationally, much reputational damage has already been done.

Secondary licensing systems are successfully in place all over the world. They work on the basis of a tried and tested economic model, which sustains authors and publishers while providing affordable access to high quality, diverse, relevant materials for national education sectors. Economic studies in Canada and elsewhere show that without the income generated from such licenses authors will not be able to continue to supply the educational market and will be forced to turn to other work to make a living. For example, in a study conducted by PwC in the UK in 2012, it was estimated that a drop of 20% in the licence income would lead to a 29% reduction in the production of educational works, or 2,870 titles per year in the UK alone. Authors cannot be expected to work for nothing any more than any other type of working professional, including those working for the good of society, or indeed serving education, such as teachers.

Authors want their work to be available to as large an audience as possible, through its provision in libraries, schools, universities and so on, and in digital, paper or other formats. The flexibility of a copyright law that accommodates user needs to access authors' work in as many forms and for as many kinds of uses as possible, and which does not unnecessarily limit that access, is vital. However, as reflected in the international copyright framework embodied in the Berne Convention and other copyright treaties administered by the World Intellectual Property Organisation (WIPO) including the TRIPS agreement, the aim of copyright is to do this within a framework which grants rights to authors that give them the opportunity to make a living from those uses, and the necessary protection to choose if and when to make them available for free.

Any exceptions to those rights must respect the Berne Convention's three-step test, (Article 9), which gives countries the option to provide an exception to the right of reproduction only where it "does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author". It is doubtful that Canada's copyright law currently reflects these internationally respected norms, to which Canada is signatory. It is also to be remembered that the rights of authors to the moral and material interests in their work are recognised in Article 27(b) of the 1948 Universal Declaration of Human Rights. The pattern in Canada is having the effect of taking their rights and choices away from them. The results of a survey last year by The Writers' Union of Canada showed that writers in Canada are making 27% less from their writing than they were making in 1998, despite 43% of those surveyed having to work harder.

In its work advocating for the rights of authors at the international level, including at Standing Committee on Copyright and Related Rights at WIPO, the International Authors Forum has and must continue to refer to the current situation in Canada as an example of how *not* to reform copyright.

We welcome any opportunities to discuss this with you further and will be happy to provide further information about the realities authors face, in Canada and elsewhere, in trying to keep alive what is clearly becoming, despite its societal importance, an increasingly endangered profession.

Yours sincerely,

The members of the International Authors Forum:

Academic and Non-fiction Authors' Association of South Africa (ANFASA), South Africa

American Society of Media Photographers, USA

Association of Swedish Illustrators and Graphic Designers, Sweden

Authors' Licensing & Collecting Society Ltd, UK

BUS, Visual Arts Copyright Society in Sweden

Design and Artists Copyright Society (DACs), UK

European Council of Literary Translators' Associations (CEATL), Europe

Graphic Artists Guild, USA

Malawi Writers Union, Malawi

MISZJE, Hungarian Literary Collecting Society, Hungary

Platform Makers, The Netherlands

Society of Authors, UK

The Authors Guild, USA

The Finnish Association of Non-fiction Writers, Finland

The Writers' Union of Canada, Canada

Union des écrivaines et des écrivains québécois (UNEQ), Canada

National Writers Union, USA

Pictoright, The Netherlands

Authors Coalition of America, USA

Australian Society of Authors, Australia

Science Fiction and Fantasy Writers of America, USA

Text and Academic Authors Association, USA

Pyramide, Europe

Writers' Guild of Great Britain, UK

Writers Association of Tanzania, Tanzania

American Photographic Artists, Inc., USA

Artists Rights Society, USA

Zimbabwean Academic and Non-fiction Authors Association, Zimbabwe

Sudanese Writers Union, Sudan

Swedish Association of Educational Writers, Sweden

Uganda Textbook-Academic and Non-Fiction Authors' Association (UTANA), Uganda

Irish Writers' Union, Ireland

Irish Copyright Licensing Agency, Ireland

Korean Society of Authors, Korea

The Vietnam Literary Copyright Center, Vietnam

The Swedish Writers' Union, Sweden

Association of Authors' Agents, UK

New Zealand Society of Authors, New Zealand

Writers Association of Thailand, Thailand

Professional Writers' Union of Russia, Russian Federation

Dansk Forfatterforening, Denmark

Reprobel, Belgium

Canadian Authors Association, Canada

Federazione Unitaria Italiana Scrittori, Italy

Associació d'Escriptors en Llengua Catalana (The Association of Catalan Language Writers), Spain

Alliance of Independent Authors (ALLi), International

Belizean Writers Guild, Belize

Lira, The Netherlands

Conseil Permanent des Écrivains, France

Société des Gens De Lettres, France

Sociedad de Autores de Obras Visuales, Imagen del Tercer Milenio, S.de G.C. de I.P., Mexico

Sofia, France

Copyright Polska, Poland

Namibia National Writers Union, Namibia

Asociación de Editores y Autores de Panamá (SEA), Panama

Fundación para la Gestión del Arte (FUGA), Panama