



Submission on Copyright Board Reform

Summary

The Writers' Union of Canada (TWUC) welcomes the federal government's consultation on options for reform of the Copyright Board of Canada. Reform of the Copyright Board is overdue, and should focus on streamlining the process to better facilitate timely and binding decisions. TWUC supports the detailed submissions to this consultation by Canada's copyright licensing agency, Access Copyright, and the Canadian Copyright Institute. TWUC would like to see Copyright Board tariffs paired with unequivocal and meaningful remedies in tariff disagreements and copyright disputes.

The Writers' Union of Canada

The Writers' Union of Canada works to unite independent writers for the advancement of their common interests. TWUC is the only organization in Canada's whose membership is composed solely of professionally published book authors, and it represents over 2000 members, including authors in every province and territory across the country. The Union's primary goal is to foster the continued and diverse creation of Canadian literature by supporting the professional practices and rights of all book authors. TWUC was instrumental in the formation of Canada's collective licensing structure for authors and publishers, and is a founding member of both Access Copyright and Canada's Public Lending Right Commission. TWUC helped create the International Authors Forum, a UK-based umbrella organization for the world's authors, representing close to 700,000 professional writers around the globe. TWUC has chaired the IAF for the past 4 years, and regularly consults with member organizations on their own domestic copyright and public lending right policies.

TWUC has testified on behalf of its members at the Copyright Board, and recently participated in consultation with the Department of Canadian Heritage on how orphan works licensing through the Copyright Board might be improved.

Our Position

An effective Copyright Board is essential for the maintenance of a functioning market for professional writing in Canada. Because of the specific problems detailed in both Access Copyright's and the Canadian Copyright Institute's submission to this consultation — the inconsistency of statutory damage rules across the various tariff regimes, and the lengthy and

unpredictable tariff setting process — certain traditional markets for Canadian writing are hobbled by delay and uncertainty, resulting in economic damage to Canada's cultural sector.

In the case of various recent educational use tariffs, it has been clearly demonstrated that the process suffers from both needless delay and uncertainty around enforceability. Plainly stated, even when Canada's authors win at the Copyright Board, we lose. Despite an unequivocal Federal Court decision declaring the mandatory nature of Copyright Board tariffs, educational institutions continue to question whether or not they must comply. What's more, the current set of statutory damages for the general regime offers no meaningful penalty for non-compliance. Canada's authors should not be required to underwrite costly and protracted dispute action, such as the recent Access Copyright tariff hearings, if a positive finding on our behalf results in no meaningful financial compensation or tariff enforcement.

There is little point in Canada having a regulatory structure around copyright if we allow to persist the notion that anyone can opt out of the structure should they so desire, and if we make the penalties for such intransigence unenforceable and insignificant.

Conclusion

A federal review of the Copyright Board is welcome. TWUC believes the Board's ability to move decisions through the process must be refined and enhanced to rectify the current climate of delay. Meaningful, significant and enforceable penalties must be set for non-compliance.

A handwritten signature in black ink that reads "John Degen". The signature is written in a cursive, flowing style.

John Degen, Executive Director

On behalf of Marjorie Doyle, Chair, and the National Council of The Writers' Union of Canada.