

*Copyright Act*

The United States has a semiconductor chip protection act which extends protection to chips created by Canadian nationals only if Canada enacts comparable legislation protecting American chip originators. Since we do not have comparable legislation on chips, our local originators could be at a disadvantage in the U.S. market.

I am advised, however, by officials of the Department of Consumer and Corporate Affairs that Canada has been granted an interim protection order under the U.S. legislation. Since this order is due to expire in the fall of 1987, and notwithstanding assurances that there will be an extension, I believe the Government would be best advised to give immediate and serious consideration to this chip issue. Postponing the addressing of this issue to some unknown and fleeting phase two is really not satisfactory.

With regard to the anti-piracy remedies, the major objective of a copyright enforcement policy is to secure compliance with the law and to provide for restitution if the copyright owners' interests have been damaged. As with all aspects of the legislation, the remedy provisions must be seen to be fair to both users, that is the defendants, and owners, the plaintiffs, both in the letter of the law and in its application.

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According to the feedback I have been receiving, at the present time there seems to be satisfaction for the new measures being proposed to increase the criminal penalties, including fines. For example, revenues from the sale of sound recordings in Canada amounted to over \$600 million in 1985. It is estimated that a further \$40 million worth of pirated records and tapes were bought in that year. Pirated video cassettes account for as much as 15 per cent to 20 per cent of the legitimate market, whose retail value was some \$530 million in 1984 and has been growing considerably.

Estimates of pirated software vary widely. For some popular application packages, there may be at least one pirated copy in use for every package authorized by the publisher. That can be very serious.

The new Section 25 proposed by the Bill imposes severe penalties on a person who knowingly infringes the copyright of a work. While I appreciate that the word "knowingly" has been in use in the penalty section of the old Copyright Act for decades, I want to be assured that these new stronger deterrent criminal sanctions are not imposed against persons who unwittingly violate copyright laws. Do such people commit the offence knowingly? Just as the innocent infringer is treated less severely under Section 22, the civil remedies section of the existing Copyright Act, I will be asking in committee whether the new Bill could treat innocent infringers less severely than deliberate infringers, as I have no sympathy for the latter.

Let us turn to educational exemptions. Leading up to the introduction of this legislation, I received representations from

educators who were concerned that they might not be exempted from penalties for not obeying copyright. It is my understanding that there is not a general exemption for the reproduction of copyright material for educational purposes mainly because such an exemption could seriously jeopardize the function of the copyright system in stimulating the production and dissemination of copyright material.

Clearly, educators face problems in attempting to ensure access to a lot of copyright material. In many cases, it is difficult and time consuming to locate copyright owners of particular works in order to secure permission to reproduce such materials.

In Quebec, teachers can legally photocopy substantial extracts from a repertoire of 17,000 titles under a blanket agreement between the Quebec Ministry of Education and the Quebec Writers' Union, *l'Union des écrivains du Québec*. The Ministry of Education is paying \$1 million a year to cover photocopying of printed works by educational institutions in the province. The union distributes royalty payments to its members according to the use made of their works. Perhaps educators in other provinces could use the Quebec experience and therefore allay their fears.

The new Copyright Board and the introduction of an incentive to set up a system of collectives to ensure reasonable rates for artists is a new and welcome addition.

Let me turn to the mechanical royalty rate for composers. There exists in the present Copyright Act a provision for compulsory licensing of mechanical reproductions which is a two-cent rate for composers and music publishers of recorded music. It was intended for piano rolls and shellacked 78 rpm breakable recordings. The law was passed in the heyday of silent pictures and three years before the first national radio broadcast. Last March, I called for the abolition of this section and, therefore, am most pleased to see the repeal of Section 19, for it has been two cents for too long.

Song writers will now be able to freely negotiate royalty rates with publishers. I am pleased that we are finally allowing individual creators who work with their minds and imagination a fair return for producing exciting Canadian cultural products.

Creative works are very much the expression of the personality of their authors. The authors of the Charter of Rights for Creators believed that moral rights should be accorded as much importance as economic rights. I am pleased, as are many Canadian artists, that this definition has been expanded. We will certainly all remember artist Michael Snow who, in 1982, was forced to go to the courts to have the Toronto Eaton Centre remove the red ribbons from the necks of the 60 geese forming his sculpture, Flight Stop.

I find it interesting that the Government, in one piece of legislation, gives the creators rights over their work, preventing it from being altered in any way, while another piece of legislation, Bill C-54, commonly known as the pornography