



The Internet, copyright, and education

For Canadian students and teachers alike, reasonable access to Internet resources is a critical necessity for learning and teaching. Canada's current *Copyright Act*, however, makes it illegal for students and teachers to participate in routine classroom activities where they download, save, and share Internet text or images that were *intended* by their creators to be freely downloaded and distributed.

Copyright infringement is of key concern to educators and authorities across the country. The education sector believes that clarity and balance in the *Copyright Act* must be vigorously championed, such that copyright infringement is eliminated and that every student and teacher can be assured of timely and fair access to Internet materials.

To this end, the provincial and territorial ministers responsible for education across Canada,¹ in collaboration with teachers, school boards, colleges, universities, and professors, have proposed to the Government of Canada that it enact an **education amendment** in the *Copyright Act* to permit the educational use of freely available Internet materials. The proposed amendment is intended to address educational needs and ultimately clarify and enhance respect for copyright ownership on the Internet.

Broad support exists for the proposed education amendment. Thirteen national organizations representing the K–12 and postsecondary education sectors, as well as museums, libraries, and archives, support the proposed amendment. Together, the members of these organizations play a major role in furthering education, learning, research, and in fostering social, cultural, and economic development in Canada. They also function as key players in the provision of public access to Canada's cultural and heritage resources.

The education sector has proposed an amendment that is limited in scope, in two respects:

1. It applies exclusively to **participants in a program of learning** under the authority of an educational institution. For example, the proposed amendment would permit students to use freely available Internet materials by incorporating text or images in homework assignments, performing music or plays on-line for their peers, and exchanging materials with teachers or peers. To encourage copyright awareness and respect in all circumstances, students and educators would be required to cite the source of the Internet materials that they use.

¹ Ministers responsible for education in Newfoundland and Labrador, Prince Edward Island, Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, Yukon, Northwest Territories, and Nunavut form the Copyright Consortium of the Council of Ministers of Education, Canada (CMEC). Quebec is not a member of the consortium.

2. It applies strictly to the use of **freely available materials** on the Internet. Freely available materials are those posted on–line by content creators and copyright owners without any technological protection measures such as a password, encryption system, or similar technologies intended to limit access or distribution. These materials, intended to be widely accessed and shared, may include text, images, music recordings, theatrical performances, or instructional demonstrations. The proposed education amendment will ensure that it is legal for students and educators to reasonably access and use freely available Internet materials.

The proposed amendment will *not* exempt institutions from paying for digital materials such as commercial CD-ROMS, subscription databases, licensed software, on–line courses, and other curriculum resources. Copyright owners who wish to sell or otherwise limit access and distribution of their digital or online materials can continue to do so through subscription, password, and payment technologies. The proposed education amendment will not apply to such commercial materials, thus allowing content creators and copyright owners to continue to sell and receive payment for their works.

Rapid advances in technology-enhanced learning call for a modernized *Copyright Act* that serves the public interest in permitting reasonable access to and use of Internet materials for purposes such as education, teaching, research and innovation, and the dissemination of knowledge. If the education amendment is not enacted, schools and postsecondary institutions across the country may be legally obliged to curtail Internet use in order to avoid liability. Imposing limitations on the access to and use of a tool as valuable as the Internet could ultimately compromise the quality of education in Canada.

The Government of Canada has announced its plan to reform the *Copyright Act* and table legislation relating to education and access. The education sector welcomes this focus on the needs of students and educators. Provinces and territories have long maintained that a modern and balanced copyright framework will protect the public interest. The need for such a framework has never been more important than now, when all levels of government are investing in connecting Canadians and promoting skills development and innovation.

By enacting balanced copyright legislation, addressing the needs of students and teachers, promoting access, and making other much–needed updates, Canada has an extraordinary opportunity to enhance learning opportunities for generations to come.



The Internet, copyright, and education: Frequently asked questions

1. What impact does digital copyright legislation have on education?

Canada's *Copyright Act* regulates how students and teachers access and use learning resources on the Internet and at what cost. Currently, the *Copyright Act* makes it illegal for students and teachers to participate in routine classroom activities where they download, save, and share Internet text or images that were *intended* to be freely downloaded and distributed.

2. What is being asked of the federal government with respect to education?

Education authorities² and national organizations representing parents, teachers, school boards, professors, and postsecondary institutions are urging the federal government to amend the *Copyright Act* so that every student and teacher can be assured of timely and reasonable access to freely available Internet materials. Rapid advances in technology-enhanced learning call for a modernized *Copyright Act* that serves the public interest in permitting reasonable access to and use of Internet materials for purposes such as education, teaching, research and innovation, and the dissemination of knowledge.

3. Why is an education amendment important?

If the *Copyright Act* is to meet the needs of students and teachers, it needs to include an amendment that facilitates routine educational activities like downloading an image for a school project or copying text for research. Once it is appropriately amended, the act will enable students in all communities to develop and use Internet skills that are crucial in today's information world. If the education amendment is not enacted, schools and postsecondary institutions across the country may be legally obliged to curtail Internet use in order to avoid liability.

4. What is the urgency?

The Government of Canada has announced its plan to modernize the *Copyright Act* and table legislation relating to education and access. At the same time, both federal and provincial/territorial orders of governments are investing in connectivity and actively positioning Canada to be a leader in the information age. Unless the *Copyright Act* is amended such that students and teachers can make legal and effective use of freely available Internet materials, federal and provincial/territorial governments are in the position of supporting and funding illegal activities.

² Ministers responsible for education in Newfoundland and Labrador, Prince Edward Island, Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, Yukon, Northwest Territories, and Nunavut form the Copyright Consortium of the Council of Ministers of Education, Canada (CMEC). Quebec is not a member of the consortium.

5. What does the proposed amendment allow students and teachers to do that is not possible now?

The amendment proposes to authorize students and teachers to copy freely available material from the Internet for class work and assignments in authorized programs of learning.

6. Does the proposed amendment apply to everything on the Internet?

No, the education amendment is limited and would apply specifically to freely available material that has been posted to the Internet with the authorization of the copyright holder and without any barriers to access like encryption or a password.

7. Does the proposed amendment apply to everyone?

No, the education amendment is limited and would apply specifically to students and teachers in a program of learning under the authority of an educational institution. In this context, students and teachers would be permitted to copy freely available Internet materials for educational purposes but not for financial gain.

8. If students are required to cite materials they use anyway, why is the proposed amendment necessary?

Students are required to cite materials used regardless of source, as a matter of appropriate use of works created by others. The education amendment is nonetheless necessary to permit students to legally reproduce Internet materials in assignments, projects, and presentations and to forward these to their teachers, other students, and parents. Such educational activities are currently a violation of the *Copyright Act*.

9. What are the costs to education, if the proposed amendment is not enacted?

The administrative and financial costs to education are unknown. Under the *Copyright Act*, schools and educational authorities need to allocate administrative time and educational funds to seek out individual copyright holders for permission to copy Internet materials for educational purposes. Educators have expressed concern about the complex, costly, and time-consuming process of seeking out individual copyright permissions, particularly for digital multimedia resources. A negative consequence of existing copyright barriers is to further the digital divide in Canada between schools able to afford copyright costs of using the Internet and those who cannot afford such costs.

At present, there is no copyright collective to streamline digital rights management for the millions of artists, photographers, writers, composers, and musicians worldwide who post materials on the Internet. Notwithstanding the possibility that such an organization may eventually exist and administer rights for materials of commercial value on the Internet, there is still need in Canada for an amendment to authorize the educational use of Internet materials intended to be freely available.

10. What is the foreseeable impact on the Canadian workforce, if the proposed amendment is not enacted?

As the Canadian workplace becomes increasingly technology intensive, entry into most careers requires computer training at the high school level and/or in college or university. The current *Copyright Act*, however, is a significant barrier to the expansion of technology-enhanced education leading to future employment. Without an education amendment in the *Copyright*

Act, schools and postsecondary institutions across the country may be legally obliged to curtail Internet use in order to avoid liability. Reduced opportunities to develop critical computer skills through education and training will undermine students' ability to thrive in the modern workforce and innovate via new technologies.

11. Does the proposed amendment harm creators economically?

No, the education amendment does not prevent creators from acquiring payments for their works. The amendment is limited and would apply specifically to freely available Internet materials that are not protected by payment mechanisms like a password, encryption, or other technological protection measures. The legalization of students' and teachers' use of freely available Internet-based materials will permit educators and authorities to implement coherent copyright practices in the classroom. At present, the *Copyright Act* lacks clarity and coherence with respect to the day-to-day educational use of the Internet, which makes it difficult for teachers to model and teach respect for intellectual property.

12. Does the educational use of the proposed amendment remove legitimate rights from creators?

No, the education amendment would apply specifically to freely available material posted with the consent of the copyright owner, without any payment mechanisms or technological protection measures, such as a password or encryption, intended to limit access or distribution. An example of an Internet site disseminating freely available materials for educational use is the NASA Education Program (<http://education.nasa.gov/index.html>). The education amendment does not remove creators' rights since it applies to material like that of NASA that is intended to be freely used and shared without payment and without copyright permission. To encourage copyright awareness and respect in all circumstances, the education amendment proposes nonetheless that students and educators be required to cite the Internet materials that they use regardless of source.

13. Does everyone who puts content on the Internet expect payment?

No, there is an important distinction between Internet materials that are freely available and those that are of commercial value. As much as the Internet is a venue for commercial ventures and profit-making, it is also a venue that promotes free information, sharing, and learning. Most material on the Internet is available without charge to the public, even on a number of commercial sites belonging to automobile dealers, newspapers, realtors, hotels, restaurants, movie producers, manufacturers, and software producers. When commercial sites expect payment, they take measures to ensure that there is a means for secure transactions, thereby preventing access to and use of products and services until a payment is received. The proposed amendment does not apply to Internet materials of commercial value that have been protected by technological measures, nor does it exempt educational institutions from payments for use of such materials.

One of the primary functions of the Internet is to disseminate freely available materials created by individuals, professionals, amateurs, and organizations worldwide who want you to know about them, their passions, and their perspectives. For instance, the Canadian government and public institutions, including universities, post free information; NASA distributes free educational resources; hobbyists post tips and information without charge; and scientists post

materials about their knowledge and research. The Internet helps disseminate free information that is valuable to learning. It is therefore problematic that Canada's *Copyright Act* impedes students and teachers from effectively using freely available materials. Rapid advances in technology-enhanced learning call for a modernized *Copyright Act* that serves the public interest in permitting reasonable access to and use of Internet materials for purposes such as education, teaching, research and innovation, and the dissemination of knowledge.

14. Couldn't a copyright collective resolve the issue by authorizing the educational use of freely available materials?

No, as the education amendment would apply specifically to Internet materials posted by individuals and organizations for access and use free of charge, it is not appropriate that freely available materials be subject to licensing fees or rights management by copyright collectives. It would be problematic, for example, for a copyright collective to license government documents on the Internet intended for public use without charge and without copyright permission. Licences offered by collectives are only a partial answer to the copyright concerns of educators; they should not be seen as a complete alternative to legislation that sets out clear provisions and exceptions for the educational use of the Internet.

Copyright collectives collect fees for creators who seek payment for their works. On the Internet, it can be expected that creators and collectives will prevent their material from being freely available if they seek payment. Those creators or collectives who seek payments may rely on secure transactions, thereby preventing access to and use of products and services until a payment is received. The education amendment does not impede a copyright collective from managing materials of commercial value and acquiring payments for their use.

15. Can copyright collectives and the education amendment co-exist?

Yes, the education amendment would apply uniquely to freely available Internet materials that are used by students and teachers in authorized programs of learning. Collectives will continue to represent creators seeking payment for their materials, thereby managing access to materials of commercial value. Enactment of the amendment will clarify which materials can be freely used for educational purposes and under which conditions copyright licenses must be obtained.