



Office of the Information  
and Privacy Commissioner

410, 9925-109 Street  
Edmonton, AB T5K 2J8

May 26, 2006

Honourable Maxime Bernier  
Minister of Industry  
5<sup>th</sup> Floor West Tower  
CD Howe Building  
235 Queen Street  
Ottawa, ON K1A 0H5

Honourable Beverley J. Oda  
Minister of Canadian Heritage and  
Status of Women  
25 Eddy Street  
Gatineau, Quebec K1A 0M5

Dear Ministers:

Re: Review of Canadian copyright law

I am aware that the federal government is about to review and possibly reform Canadian copyright law. There is little doubt that this review is timely given technological advancements in recent years.

While I understand the need to update and reform copyright law, I also want to emphasize the importance of ensuring that the privacy of Canadians is taken into account in any review and reform of the existing act.

In recent years the use of ‘digital rights management’ has been employed to protect copyright, in particular in the music industry. DRM is used to restrict copying of music files that can then be shared with others via the internet.

However, DRM also presents privacy risks. Last fall, there was a well publicized case of possible spyware being installed on computers through DRM technology which had been embedded in a music compact disk. The use of this technology is a serious and, I would argue, a disproportionately intrusive incursion into the private lives of Canadians.

I urge you to use caution in your review of the Copyright Act and to ensure that any new legislation includes protection of private information of Canadians. I urge you to take a comprehensive view of this issue: the mere availability of a technological “quick-fix” to a problem does not necessarily justify its use. I cannot help but be struck by the contrast between this issue and the “lawful access” proposal. The “lawful access” proposal contained a number of “safeguards” that had to be addressed before law enforcement

authorities could access the email of Canadians. It would be wrong if private businesses were enabled to have similar access, in pursuit of less serious “wrongs”, without any safeguards or controls. The very nature of the problem itself must be considered, as well as the broader implications of the proposed solution.

I join my colleagues at both the federal and provincial levels in expressing concerns about ensuring a balance of the legal rights of the copyright holder with the privacy rights of all Canadians. I believe any review of copyright law must include widespread consultations with all Canadians. Having said this, I respectfully remind you that the average Canadian may not easily engage on issues involving such important but abstract concepts as copyright and DRM technologies. This must not suggest to you that we are indifferent or acquiescent. Furthermore, we do not have the advantage of numerous well-funded public interest advocacy groups which can participate in and inform the debate on this issue. I am, however, aware of the Background Paper on this issue prepared by the Canadian Internet Policy and Public Interest Clinic (CIPPIC), and commend it to you. Decision makers may have to delve deeper to find the pro and con arguments on such issues. Information and Privacy Commissioners from across the country are available to offer advice and consultation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Frank Work', with a stylized flourish at the end.

Frank Work, Q.C.  
Information and Privacy Commissioner of Alberta

Cc David Loukidelis  
Ann Cavoukian  
Jennifer Stoddart  
Michael Geist