



Canadian Federation of Library Associations
Fédération canadienne des associations de bibliothèques

CFLA-FCAB's Statement Against the FairPlay Canada Application to Disable On-line Access to Piracy Sites

In response to the recent website blocking proposal submitted to the Canadian Radio-television and Telecommunications Commission (CRTC), the Canadian Federation of Library Associations/Fédération canadienne des associations de bibliothèques (CFLA-FCAB) is hereby submitting its response, and expressing concern, over the proposed, online anti-piracy blockers being requested by the FairPlay Canada Coalition.

CFLA-FCAB has grave concerns that without proper oversight, once approved, internet service providers would be required to blacklist suspected sites, without judicial review or oversight of any kind. CFLA-FCAB wishes to mitigate the negative impact on net neutrality, fair dealing, and Canadian's right to privacy and freedom of expression online. The proposed scheme will harm consumers, censor legitimate content, and ultimately be used to protect outdated services like cable TV packages.

FairPlay Canada, a coalition of more than 25 organizations, including Bell, Rogers, Quebecor, the Directors Guild of Canada, and CBC/Radio Canada, is urging the CRTC to create an anti-piracy website blocking plan, by establishing an Independent Piracy Review Agency (IPRA), which would be responsible for reviewing complaints, identifying websites engaged in piracy activities, and reporting them to the CRTC for approval. CFLA-FCAB recommends that the government and the CRTC proceed with caution over the requests of the FairPlay Canada Coalition and its proposed website blocking plan. It is CFLA-FCAB's view that Canadian's access to free and valuable information is at great risk. Specifically, the proposed scheme will have detrimental effects on educational institutions and would leave them with little recourse other than to submit appeals for judicial review in the Federal Court of Appeal, after the fact.

The broad definition of 'piracy sites' being used (no mention of fair dealing exceptions), in combination with the limitations of current website blocking technologies (which are often overreaching) will undoubtedly lead to legitimate content and speech being censored online without due process or judicial intervention of any kind. This violates Canadian's right to free expression and the principles of net neutrality.

Fair Dealing

CFLA's position on Fair Dealing is that it empowers library users to learn and explore new opportunities for personal fulfillment and intellectual or professional growth, supports scholars and scientists in research, and challenges students to think critically about the world. Fair dealing allows the limited copying of copyright-protected material (or portions thereof) without payment of fees, or seeking permission from the rights holder, for the purposes established in Sections 29, 29.1 and 29.2 of the Copyright Act of Canada.

The broad definition provided in Coalition's proposal puts systems such as the Learning Management Systems (LMS) used by academic libraries in jeopardy as it could be interpreted as copyright infringement.

Net Neutrality

“Net neutrality is the principle that internet service providers should not be allowed to give preference to, influence, or discriminate against online content based on its ideology, origin, format, content, or destination, and that all content should be equally available to all.”¹ While much of the discussion on net neutrality has been related to paying for access and preferential treatment to those who pay, the basic principle of the Coalition's proposal to the CRTC is to restrict or remove access to online content without judicial process and is directly in conflict with providing Canadians access to information.

The Canadian Economy

The FairPlay Canada Coalition's proposal relies heavily on the argument that “piracy is a large and growing problem that threatens the massive employment, economic, and cultural contributions of Canada's film, television, and music industries.” However, according to the Canadian Media Production Association's *Profile 2017: Economic report on the screen-based production industry in Canada*², there has been significant growth in production volume, full-time equivalent jobs, gross domestic product and foreign investment in production. Also, they also argue that “more than 20 of Canada's international peers have established similar regimes” with a positive market effect. However, the Canadian market is currently outperforming many site blocking countries, and the U.S (often viewed as one of the most aggressive copyright enforcers) does not rely on site blocking systems. It should be noted that many of the other countries' website blocking plans include more rigorous judicial intervention throughout the process, when compared to FairPlay Canada Coalition's proposal.

FairPlay Canada's website blocking proposal has received an overwhelmingly negative response, in the form of individual submissions to the CRTC. CFLA-FCAB adds its voice to those raising concerns. CFLA does not condone copyright infringement activities but does support the balanced enforcement of intellectual property rights, net neutrality, fair dealing, and freedom of expression.

For more information, please contact:

Katherine McColgan
Executive Director -- Directrice générale
Canadian Federation of Library Associations
75 rue Jolicoeur, Gatineau QC, J8Y 1A8
613.867.7789

Additional Resources regarding copyright, Fair dealing, net neutrality and protecting Canadian privacy can also be found: www.cfla-fcab.ca

¹ CARL Statement on Net Neutrality www.carl-abrc.ca/wp-content/uploads/2018/01/CARL-Net-Neutrality-Statement_EN.pdf

² <http://www.primetimeinottawa.ca/wp-content/uploads/2018/02/Profile-2017.pdf>, p.15