

Submission to the CRTC

Public Proceeding

8663-A182-201800467

Application to Disable

On-line Access to Piracy Sites

19 March 2018

Our interest in this matter

CAUT members create copyright material, including course content, journal articles and textbooks – in traditional and new media forms. In addition to being creators, CAUT members also use copyright material. As researchers, we know that new knowledge does not arise spontaneously, but is built on the past and present work of others. As teachers and librarians, we also understand that accessibility by students to information is critical to the learning process. The development of an open Internet has been instrumental in dramatically expanding both research capability and learning opportunities for Canadians.

The consultation

The CRTC has provided the opportunity for Canadians to comment on a proposal by an industry group to create and run an agency with the mandate to identify websites deemed engaged in commercial level copyright infringement, and the power to request that the CRTC order Internet Service Providers to disable public access to these sites. CAUT is opposed to this proposal.

Our position

CAUT acknowledges the harm commercial level copyright infringement does, and backs appropriate steps to hold accountable those engaged in the activity. At the same time, CAUT supports net neutrality, the principle that Internet Service Providers should enable access to all content and applications regardless of the source, and without favoring or blocking particular products or websites.

In the past industry groups such as the one assembled to advance the current application (to disable on-line access to “piracy” sites) have over-reached in a manner broadly damaging to the public interest. Such campaigns have sought to create more generalized restrictions on access to information – including efforts to curtail copyright exceptions for use of materials in the education sector, and nullify broad public rights such as fair dealing. Site-blocking has also taken on political overtones. The communications company Telus blocked a website run by members of the Telecommunications Workers Union, barring one million subscribers from accessing the union site, an action that also prevented the public

from reaching 766 unrelated other sites on the same server.

At the broadest level, therefore, any website-blocking proposal by a group with strong business and political justifications for restricting the public’s access to content must be met with skepticism. In addition to matters of broad principle, there are also specific issues with respect to the claims made by the proposal’s proponents. Paragraph 50 of their statement indicates:

Piracy is manifestly unfair to Canadians who continue to access content by legal means. As some individuals stop paying for creative content, an ever shrinking base of legitimate subscribers is forced to pay for the development of content which is stolen by an ever increasing group of pirate operators and their customers.

This is manifestly untrue. Rather than shrinking, the base of subscribers for legitimate services has expanded exponentially in the last few years. Canada is now one of the world’s leading markets for online video services, with Netflix, for example, present in more than half of all English-language households. Additionally, piracy rates in Canada are below global averages and continue to decline.

Further, contrary to the assertion in Paragraph 3 of the applicant’s proposal that piracy “makes it difficult if not impossible to build the successful business models that will meet the evolving demands of Canadians, support Canadian content production, and contribute to the Canadian economy”, the latest data from the Canadian Media Producers Association demonstrates continuing and record industry growth, with across the board increases in all forms of content production.

To conclude, the application fails to present a compelling case for itself, while at the same time presenting an unacceptable risk to the open exchange of information, particularly given the lack of judicial oversight. CAUT urges the rejection of the proposal.

Recommendation

The CRTC should reject 8663-A182-201800467 - Application to disable on-line access to piracy sites.

All of which is respectfully submitted.