

June 25, 2012



Dr. John McKendry  
Acting President  
Kwantlen Polytechnic University  
12666 72 Avenue  
Surrey, BC  
V3W 2M8

Dear President McKendry:

On behalf of Kwantlen Faculty and the Kwantlen Student Association we are writing to express our deep concerns about the administration's decision to sign on to the Access Copyright Agreement. Access Copyright has been actively promoting a model agreement that significantly changes terms, condition, principles and definitions related to copyright. We firmly believe that the proposed model harms the interests of faculty and students, fails to reflect current court decisions in this area, ignores the prospect of pending court actions as well as legislative changes related to copyright and undermines efforts to create better ways of accessing, using and sharing educational and research material.

It's worth noting that here in BC some of the largest post-secondary institutions—UBC in particular—have decided not to back the AUCC model agreement. That fact and the major concerns of faculty and students, not just here in BC, but across Canada, should be reason enough for Kwantlen to take a much more cautious approach to this issue.

By way of background, it's important to remember that for many years universities purchased licenses from Access Copyright so that students and faculty could reproduce copyrighted material. However, over time the academic community raised objections to the arrangement, noting the administrative burden and issues of privacy as well as Access Copyright's aggressive practices in this area. When Access Copyright began to lobby for legislative changes, those actions simply compounded the problem.

Once the current license expired, Access Copyright proposed changes, many of which will significantly increase costs and have serious implications on students' and faculty's privacy. Both changes represent regressive steps in an area that is both complex and critical to the success of every post-secondary institution.

It is clear that the model agreement proposed by AUCC has serious flaws. It will mean a significant increase in fees, much of which will be paid by students whether directly or indirectly. The model agreement changes the definition of copyright, a change that is at odds with a recent Supreme Court of Canada decision and one that may well be at odds with legislative changes that are currently under

consideration by the federal government. The model agreement also amounts to paying Access Copyright for rights that already exist under current copyright legislation in Canada.

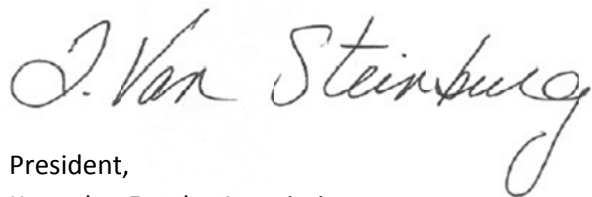
We are deeply concerned about Kwantlen's moving ahead with the model agreement when the government of Canada has passed Bill C-11. Bill C-11 contains copyright provisions that are beneficial to educational institutions. Moreover, additional court actions involving copyright disputes are still working their way through the court system. The outcome of those court cases along with the proposed amendments included in C-11 need to be fully assessed before any major commitments to change at an individual institutional level are made.

The issue of privacy is also a major concern for both students and faculty. Provisions in the proposed model agreement mandate the creation of surveillance instruments to help enforce the tighter restrictions that the model agreement places on the downloading and transmission of electronic materials. The extent of that surveillance is not yet defined, but the requirement leaves wide open the potential for privacy violations that would not only compromise standards here at Kwantlen, but also set a dangerous precedent for students and faculty throughout BC.

Furthermore, we see the model agreement as having a serious and negative impact on the use of scholarly material. Provisions in the model agreement will prohibit the storage or indexing of copies of articles and other material, an activity that is fundamental to scholarly work in every discipline. Indexing copies and storage of scholarly material is of paramount importance to students as well. Access Copyright is attempting to implement archaic methods of controlling the sharing of information.

The Access Copyright proposed model agreement may be a benefit to that organization, but it comes at the expense of faculty, students and the post-secondary institutions in which they work and learn. Kwantlen's proposal to embrace the model agreement is ill-timed and at odds with the interests of its faculty and students. We urge you to reconsider your decision to-date and work with us to find an appropriate way forward on this complex and important issue.

Sincerely,



President,  
Kwantlen Faculty Association



Director of External Affairs,  
Kwantlen Student Association