The Honourable Mélanie Joly, P.C., M.P.
Minister of Canadian Heritage

The Honourable Navdeep Singh Bains, P.C., M.P.
Minister of Innovation, Science and Economic Development,

House of Commons,
Ottawa, Ontario K1A 0A6
Canada

Friday 22nd April 2016

Dear Ministers,

The International Authors Forum is a network representing nearly 650,000 professional creators worldwide. Our members, 56 organisations representing authors, including The Writers’ Union of Canada, L’Union des écrivaines et des écrivains québécois and the Canadian Authors Association, have noted with serious and growing concern the shocking impact upon Canadian authors’ incomes of Bill C-11, also known as the Copyright Modernization Act.

The chain of consequences, albeit unintended, stemming from the Bill’s implementation have brought to a virtual halt the operation of a secondary collective licensing system, which remunerated authors for the use of their works in schools and universities without putting an unfair financial burden on the educational budget. Since the introduction of ‘education’ to the fair dealing provisions in Canada’s copyright law, the loss to Canadian authors stands at approximately $30 million annually, meaning the continued production of such work is by no means sustainable. This will disadvantage not only authors but the education system and, importantly, Canadian students, who have so far not experienced any reduction in the cost of their education despite the supposedly cost-reducing effect of the revised fair dealing provisions and interpretation thereof. To the contrary, student media in Canada reports a huge increase in course pack costs as a direct result of collective licensing being dropped.

The latest decision by the Canadian Copyright Board to severely reduce the tariff used to compensate authors for the photocopying of their works in K12 schools will erode creators’ incomes and Canadian educational publishing even further. We therefore urge you to do everything in your power to ensure this legislation is reviewed without delay, so that the appropriate balance between rights and exceptions, which it is the very purpose of copyright to strike, can be restored.

Authors’ work represents and conserves Canada’s unique and important cultural identity and helps to provide a high quality education to Canadian students. However, Canada is rapidly becoming a country whose laws and policies no longer support or appear to value the work of independent, professional authors. Canada’s cultural standing, as well as its world-class educational standards, are at grave risk. Indeed, internationally, much reputational damage has already been done.
Secondary licensing systems are successfully in place all over the world. They work on the basis of a tried and tested economic model, which sustains authors and publishers while providing affordable access to high quality, diverse, relevant materials for national education sectors. Economic studies in Canada and elsewhere show that without the income generated from such licenses authors will not be able to continue to supply the educational market and will be forced to turn to other work to make a living. For example, in a study conducted by PwC in the UK in 2012, it was estimated that a drop of 20% in the licence income would lead to a 29% reduction in the production of educational works, or 2,870 titles per year in the UK alone. Authors cannot be expected to work for nothing any more than any other type of working professional, including those working for the good of society, or indeed serving education, such as teachers.

Authors want their work to be available to as large an audience as possible, through its provision in libraries, schools, universities and so on, and in digital, paper or other formats. The flexibility of a copyright law that accommodates user needs to access authors’ work in as many forms and for as many kinds of uses as possible, and which does not unnecessarily limit that access, is vital. However, as reflected in the international copyright framework embodied in the Berne Convention and other copyright treaties administered by the World Intellectual Property Organisation (WIPO) including the TRIPS agreement, the aim of copyright is to do this within a framework which grants rights to authors that give them the opportunity to make a living from those uses, and the necessary protection to choose if and when to make them available for free.

Any exceptions to those rights must respect the Berne Convention’s three-step test, (Article 9), which gives countries the option to provide an exception to the right of reproduction only where it “does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author”. It is doubtful that Canada’s copyright law currently reflects these internationally respected norms, to which Canada is signatory. It is also to be remembered that the rights of authors to the moral and material interests in their work are recognised in Article 27(b) of the 1948 Universal Declaration of Human Rights. The pattern in Canada is having the effect of taking their rights and choices away from them. The results of a survey last year by The Writers’ Union of Canada showed that writers in Canada are making 27% less from their writing than they were making in 1998, despite 43% of those surveyed having to work harder.

In its work advocating for the rights of authors at the international level, including at Standing Committee on Copyright and Related Rights at WIPO, the International Authors Forum has and must continue to refer to the current situation in Canada as an example of how not to reform copyright.

We welcome any opportunities to discuss this with you further and will be happy to provide further information about the realities authors face, in Canada and elsewhere, in trying to keep alive what is clearly becoming, despite its societal importance, an increasingly endangered profession.

Yours sincerely,

The members of the International Authors Forum:
Academic and Non-fiction Authors' Association of South Africa (ANFASA), South Africa
American Society of Media Photographers, USA
Association of Swedish Illustrators and Graphic Designers, Sweden
Authors' Licensing & Collecting Society Ltd, UK
BUS, Visual Arts Copyright Society in Sweden
Design and Artists Copyright Society (DACS), UK
European Council of Literary Translators’ Associations (CEATL), Europe
Graphic Artists Guild, USA
Malawi Writers Union, Malawi
MISZJE, Hungarian Literary Collecting Society, Hungary
Platform Makers, The Netherlands
Society of Authors, UK
The Authors Guild, USA
The Finnish Association of Non-fiction Writers, Finland
The Writers’ Union of Canada, Canada
Union des écrivaines et des écrivains québécois (UNEQ), Canada
National Writers Union, USA
Pictoright, The Netherlands
Authors Coalition of America, USA
Australian Society of Authors, Australia
Science Fiction and Fantasy Writers of America, USA
Text and Academic Authors Association, USA
Pyramide, Europe
Writers’ Guild of Great Britain, UK
Writers Association of Tanzania, Tanzania
American Photographic Artists, Inc., USA
Artists Rights Society, USA
Zimbabwean Academic and Non-fiction Authors Association, Zimbabwe
Sudanese Writers Union, Sudan
Swedish Association of Educational Writers, Sweden
Uganda Textbook-Academic and Non-Fiction Authors' Association (UTANA), Uganda
Irish Writers' Union, Ireland
Irish Copyright Licensing Agency, Ireland
Korean Society of Authors, Korea
The Vietnam Literary Copyright Center, Vietnam
The Swedish Writers' Union, Sweden
Association of Authors' Agents, UK
New Zealand Society of Authors, New Zealand
Writers Association of Thailand, Thailand
Professional Writers' Union of Russia, Russian Federation
Dansk Forfatterforening, Denmark
Reprobel, Belgium
Canadian Authors Association, Canada
Federazione Unitaria Italiana Scrittori, Italy
Associació d’Escriptors en Llengua Catalana (The Association of Catalan Language Writers), Spain
Alliance of Independent Authors (ALLi), International
Belizean Writers Guild, Belize
Lira, The Netherlands
Conseil Permanent des Écrivains, France
Société des Gens De Lettres, France
Sociedad de Autores de Obras Visuales, Imagen del Tercer Milenio, S.de G.C. de I.P., Mexico

Sofía, France

Copyright Polska, Poland

Namibia National Writers Union, Namibia

Asociación de Editores y Autores de Panamá (SEA), Panama

Fundación para la Gestión del Arte (FUGA), Panama