



Opinion

One unnoticed USMCA win: copyright extensions



Daniel Lafrance

Intellectual property

With news of the conclusion of NAFTA 2.0 negotiations dominated by concessions of the supply-managed sector, auto tariffs, and dispute-settlement clauses, one big win that's not been celebrated is the extension of Canada's copyright term to meet international standards.

Modernizing the Copyright Act to ensure Canadian rights-holders have the same protections as their international competitors is a welcome addition to the new United States-Mexico-Canada Agreement on trade (USMCA).

After being on the sidelines internationally for decades, the term of copyright in Canada will be strengthened to the life of the author plus 70 years. Canada's current term, life plus 50 years, limits the revenue available to music publishers and other domestic rights-holders to finance the discovery and development of Canadian talent. In the music publishing business, a forward-looking, digitally attuned copyright regime will foster Canadian innovation, investment, and growth in a key economic sector.

Most Canadian music publishers are small- and medium-sized businesses, led by people who represent and invest in songs and songwriters heard daily on the radio, streaming services, and in video games and film and television productions



Heritage Minister Pablo Rodriguez started in the job in July, amid an ongoing review of Canada's Copyright Act. *The Hill Times* file photograph

around the world. For many music publishing companies like the one I manage, Éditorial Avenue, there are one or two songs that can generate a substantial share of revenue in a publisher's entire catalogue.

If you look at a catalogue over 30 years, five per cent of that catalogue is likely generating 80 per cent of the revenue for that business. And that's owed to the classics that have been around a long time. The revenue from these songs allows publishers to develop relationships, create opportunities for a song to be used in a commercial or movie soundtrack, and take risks on a new songwriter.

Take the song *Comme d'habitude*, written by French musicians and writers Claude François and Jacques Revaux. Paul Anka rewrote the English lyrics set to the same music that was later made famous when Frank Sinatra sang it as *My Way*. In Canada, Éditorial Avenue held the copyright for *Comme d'habitude* until March 2018. This meant that if a director wanted to use parts of *My Way*

in a movie scene or trailer or if a marketing manager wanted to use it for a commercial, they would have had to clear the licensing with Éditorial Avenue. A classic like this could garner \$200,000 for one great sync deal (a licence granted by the copyright holder).

Of course, this doesn't happen every day, or even every year. Over the life of the copyright, a great sync deal could have extraordinary impacts on simply staying in business, investing in new talent, and innovating in ways that allow the sector and Canadian economy to grow.

Detractors of extended copyright terms argue that 50 years is long enough. However, adding an extra 20 years to the term, which is what at least 75 countries around the world have set their protections at, can only help Canada's creative industries.

Similarly, French-Canadian singer-songwriter Félix Leclerc's work, part of which Éditorial Avenue represents, will come into public domain soon. It's

unclear how much money we would be losing in the future because we can't collect royalties in Canada, but it's certain that without this copyrighted work in our catalogue, Éditorial Avenue would not be able to invest in the exceptional Canadian talents such as Pierre Lapointe, Loco Locass, Éric Lapointe, Alex Nevsky, Peter Peter, Amylie, Matt Holubowski, Jason Bajada, Daniel Bélanger, Damien Robitaille, Les Respectables, Bran Van 3000, Loud Lary Ajust, and Ariane Moffatt.

We develop our writers. We invest effort, money, and years to build up the careers of our writers. Protecting copyright for an extra 20 years allows us to do exactly more of what former heritage minister Mélanie Joly told creative industries to do in her Creative Canada policy framework: "take risks, put forward bold and unique material, and we will help you succeed."

In 20 years, many classics will be used somewhere—on a show or movie, or in advertising. I might have two, three, or 10 big syncs from that one song. It's impossible to put a number on it, but to be a publisher, you need to be in for the long run. We don't operate in the here and now. We're visionaries.

In announcing the Creative Canada policy framework, the government noted "Investing in our creators also means ensuring they are fairly compensated, and can protect and make the most of their intellectual property." Parliamentarians are currently reviewing the Copyright Act. If the government is serious about "work[ing] hard to ensure [the] review defends the interests of creators," extending the term of copyright protection is an important step. Parliamentarians should move quickly to conclude the review and ratify the USMCA to ensure continued success of Canada's creative sector.

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