Introduction: When we think about quoting, one immediately imagines excerpts from a texts. A student can take small portions of other written works and include them into their own, providing they exercise proper attribution. The same can’t be said for other forms of copyright protected content. As of now, Canadian copyright law forbids a student from copying almost any portion of a musical or audiovisual work without permission from the copyright holder. This is highly inconsistent with what our research has shown to be the manner in which youths learn in the age of web 2.0. Some posit that the Federal Government’s new bill C-11 will change this. We are not so sure...

Educational fair dealing: Bill C-11 seeks to add “education” to the list of fair dealing provisions. While this looks good on its face, the exception is poorly defined (more accurately not defined at all). What we do know is that for the student’s use of copyright protected material to be fair it must pass the six factor test set out in the CCH decision. This analysis is highly subjective and case specific.

“Lessons” exception: Clause 27 of bill C-11 allows for teachers (in certain cases) to make use of copyright protected content in lessons or examinations. This exception fails for two reasons. 1) it forces teachers to destroy their lessons 30 days after students receive their final grades for the course. What teacher wants to reconstruct their lesson plan from scratch every year! 2) The students must also destroy all copies of the lesson 30 days after receiving their marks. This eliminates the ability of students to keep information for future reference. Do students have to destroy their course packs 30 days after receiving a grade? This provision is unrealistic, not technology neutral and unduly impedes pedagogy.

Conclusion: Bill C-11 is inadequate in addressing the needs of today’s Canadian students. The prevalence of copy paste literacy and the shift towards digital media in the classroom has not properly been worked into the Governments proposed legislation. It is our fear that this will result in Canada being left behind on the global academic scale as more progressive governments (or in some cases judges) adapt their concept of copyright protection to recognize the shifting paradigm. Instead, it will be Canadian students and educators who will be forced to adapt, an unattractive proposal.