

Frequently Asked Questions (FAQs)

What is the Canadian Private Copying Collective (CPCC)?

The CPCC is a non-profit agency charged with collecting and distributing private copying royalties. Established in 1999, CPCC is a collective of collectives that represent music authors, music publishers, recording artists and record companies. The CPCC is responsible for proposing media to be covered and the rates for such media.

What is private copying?

A "private copy" is a copy of a track, or a substantial part of a track, of recorded music that is made by an individual for his or her own personal use. A compilation of favourite tracks is a good example of how people typically use private copies. Canada's *Copyright Act* was revised in 1997 to allow consumers to copy recorded music for their own personal use. In exchange, legislators provided for a royalty to provide remuneration for private copying to those with rights in recorded music.

Similar royalties are collected in over 40 countries around the world. The payment songwriters, artists, music publishers and record companies receive helps to ensure that there is still an incentive for them to both create and make recordings of music.

Why charge a royalty on blank audio recording media?

Private copying of music has increased over the last few years. As a result, music authors (composers, lyricists and songwriters), music publishers, recording artists and record companies are not collecting payment for a large proportion of the copies made of their work. Survey evidence indicates that 1.1 billion tracks of recorded music, were copied between July 2001 and June 2002 in Canada.¹ Of this number, only 3% were authorized by and involved payment to copyright holders. Two-thirds of what's being copied onto CD-Rs by individuals is music, and individuals use MP3 players almost exclusively to copy music. Increasingly, new technologies such as flash memory cards and micro-hard drives used with MP3 players, as well as recordable DVDs are also used to copy music.

¹ "Market Study of Private Copying of Pre-recorded Music in Canada," Circum Network Inc., August 2002

Attaching a royalty to the blank media used for private copying allows those with rights in recorded music to receive some remuneration for their work and investment.

This compensation provides an incentive for music creators and artists to continue to create music, and for record companies and publishers to continue to invest in its creation. What is the private copying royalty?

Royalties are applied to the kinds of media that are ordinarily used for private copying. The media included and the royalty rates are determined by the Copyright Board, an impartial economic administrative tribunal, based upon evidence presented in a formal hearing process.

Isn't this just another tax by the federal government?

The private copying royalty is not a tax. Unlike a tax, which is collected by the government, the private copying royalty is collected by the CPCC to provide remuneration to rights holders for private copying. The private copying royalty helps to ensure rights holders receive some payment for the copying of their work and to assist them in continuing to create, and invest in the creation of, music.

Who is entitled to receive payments?

The royalties are distributed among rights holders, including music authors, music publishers, recording artists and record companies. These royalties are the mechanisms by which they are paid for the use of their work and investment.

While music authors and publishers may qualify regardless of their nationality, at present only Canadian performers and record companies qualify for payment.

The Copyright Board has allocated the royalties for 2001 and 2002 as follows:

Eligible music authors and publishers: 66%
Eligible performers: 18.9%
Eligible record companies: 15.1%

The allocation for 2000 is:

Eligible music authors and publishers: 75%
Eligible performers: 13.7%
Eligible record companies: 11.3%

How much money will be distributed?

The private copying tariff has been in effect now for three full years. Over the three years from 2000 to 2002 the tariff generated \$59.3 million in revenue. Of that amount \$54.4 million was available for distribution to authors, performers and producers of sound recordings. In the most recent complete fiscal year CPCC's total expenses, including the cost of hearings before the Copyright Board and all of its administrative costs, totalled just 5.5% of its revenue or \$1.5 million.

Distribution of the \$54.4 million began earlier this year. The CPCC anticipates that during 2003 it will complete the distribution of a large portion of the \$28 million collected in 2000 and 2001 and will make a good start on distributing the \$26 million available for distribution from the levy in 2002.

What is the distribution methodology?

The distribution process adopted will ensure that royalties are fairly distributed to the tens of thousands of rights holders whose recorded music is in current use.

Since information is not available concerning exactly what tracks of recorded music are copied, CPCC has used the two most comprehensive available sources of information – data indicating the recorded music that is sold in retail outlets in Canada and data concerning the recorded music that is broadcast by commercial radio stations and CBC. Airplay and sales are weighted equally.

Internet downloads are not currently used as a basis for distributing private copying royalties as there are no data available at this time. Airplay and sales data are believed to provide the best available indication of the titles that Canadians typically copy for private use.

How does a rights holder get payment?

As a rights holder, the easiest way to access payment is by joining one of the CPCC's member collectives:

Canadian Musical Reproduction Rights Agency (CMRRA)
www.cmrra.ca

Neighbouring Rights Collective of Canada (NRCC) / La société canadienne de gestion des droits voisins (SCGDV)

E-mail: info@nrdv.ca

Through one of its member collectives:

- The American Federation of Musicians of the United States and Canada (AFM)
- The ACTRA Performers' Rights Society (APRS)
- La société de gestion collective de l'Union des artistes (ARTISTI)
- Audio-Video Licensing Agency (AVLA)
- La société de gestion collective des droits des producteurs de phonogrammes et de vidéogrammes du Québec (SOPROQ)

Society for Reproduction Rights of Authors, Composers and Publishers in Canada / Société du droit de reproduction des auteurs, compositeurs et éditeurs du Canada (SODRAC)

www.sodrac.com

Société de gestion des droits des artistes-musiciens (SOGEDAM)

Society of Composers, Authors and Music Publishers of Canada / Société Canadienne des auteurs, compositeurs et éditeurs de musique (SOCAN)

www.socan.ca

Is this all about downloading and burning songs?

The private copying law does not legitimize peer-to-peer file sharing of music.

What is the Copyright Board and what authority does it have?

The Copyright Board, a federal administrative tribunal, decides which media are ordinarily used for private copying and, should, therefore, attract a private copying royalty. It also may adjust the proposed royalties based on arguments for and against a proposed private copying royalty structure.

Because technologies come and go and the value of copying can change over time, the legislation does not create a static catalogue of specific types of media on which there should be a royalty or fix royalty amounts for all time. Instead, it sets up a framework that allows for periodic review by the Copyright Board.

How does the Copyright Board set the private copying royalty rates?

The process by which the private copying royalty rates are set is fair and open. The amount of the royalties is set by the Copyright Board after hearing arguments from both the rights owners and the blank media industry, as well as other concerned individuals and organizations.

The process the Board follows is described fully in the Supplement to the Canada Gazette of March 9, 2002, where the proposed tariff was published, and on the Board's website (<http://www.cb-cda.gc.ca>). Objectors can come to the Board and offer their own arguments as to why the tariff is not justified. The Copyright Board is free to amend the tariff if, based on arguments for and against the proposed tariff, it does not regard the proposal as reasonable and justified. Specifically, the Board can decide that a blank recording medium on which CPCC has requested a levy does not qualify under the definition the Government set out in the *Copyright Act*. The Board can also decide that the rates proposed by CPCC are too high. In the two previous private copying hearings, the Copyright Board used both of these powers to amend the proposed tariff after an open, public hearing.

Who pays the royalty on blank audio recording media?

Under copyright law, importers and manufacturers of blank audio recording media are required to pay the royalty on blank audio recording media sold or otherwise disposed of in Canada. Blank media that are exported from Canada are not subject to the royalty and no royalty is payable on sales to organizations that represent the perceptually disabled. When retailers buy blank audio recording media from Canadian importers and manufacturers to sell to consumers, the royalty is then built into the price.

Zero-Rating

What is the zero-rating program?

In 1999, CPCC established a program to permit media otherwise subject to private copying royalties to be purchased "zero-rated" or royalty free. The program was available to a wide range of groups. Purchasers were required to be certified in advance by CPCC and buy from a CPCC-authorized seller. The original program was confined to audio cassettes, MiniDiscs, CD-R Audio and CD-RW Audio. CPCC's Board of Directors has now approved extension of zero-rating to CD-R, CD-RW and recordable DVD. The new program came into effect on September 1, 2003.

Who can qualify for zero-rating?

Educational institutions, broadcasters, law enforcement agencies, advertising agencies, the music, film and video industries, courts, tribunals and court reporters, religious organizations, telemarketing firms, software companies, duplication facilities, medical institutions, technology companies, conference and training companies, governments, and other firms duplicating audio and data for business use - these, and others too, will obtain access to zero-rated media.

Participation in the program is open to any business and to any institution or non-profit organization. Even very small businesses can qualify, regardless of whether they are incorporated or are simply registered businesses.

For more information about CPCC's zero-rating program, please consult the CPCC website at www.cpcc.ca.

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