

Copyright Board
Canada



Commission du droit d'auteur
Canada

NEWS RELEASE

The Copyright Board of Canada sets royalties to be paid by provincial and territorial governments for the copying of literary works

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Ottawa. Today, the Copyright Board of Canada certified a tariff setting the royalties to be paid for the reproduction of literary works by provincial and territorial governments.

More specifically, in today's decision, the Board sets the royalty rates applicable to provincial and territorial governments outside of Quebec for the copying of books, newspapers, magazines, journals and other publications by their employees.

The royalties set in the tariff will be payable to Access Copyright, a collective society that administers the reproduction right in published literary works for all of Canada, except Quebec.

The Board held an eight-day hearing during which it heard expert testimony and examined a number of expert reports. Based on the analysis of a study of copying by government employees carried out in 2010, the Board set the royalty rate at 11.56¢ per employee, per year, for the 2005-2009 period and 49.71¢ per employee, per year, for the 2010-2014 period.

The Board took several factors into consideration in determining those rates. First, the evidence shows that a significant proportion of government employees (about 60 per cent) do not engage in any form of copying.

Second, among the works that are copied by employees of provincial and territorial governments, some are not part of Access Copyright's repertoire. Thus, such copies are not compensable under the tariff.

Third, a large portion of copying by government employees does not generate remuneration because the Board found that this copying was permitted under the fair-dealing provisions of the *Copyright Act*. The Board reached this decision by giving fair dealing, a user's right, a large and liberal interpretation, in accordance with the Supreme Court of Canada's decisions.

Finally, the evidence indicated that two types of copying are most common in governments: printing from electronic files and making digital copies such as by scanning, emailing and

posting. As proposed by Access, the tariff covers printing from electronic files only for the 2010-2014 period. Furthermore, for reasons set out in the decision and that relate to the scope of Access' mandate, the tariff does not cover digital copies for all of its duration, i.e., 2005 to 2014.

Considering all of these factors, the Board found that a typical government employee made an average of just under 2 copies per year that are compensable in the period 2005-2009 and 22 copies per year during the period 2010-2014.

Mr. Gilles McDougall, Secretary General of the Board, said that "The amounts of royalties that are likely to be generated by the Tariff are approximately \$14,000 per year for the 2005-2009 period and \$60,000 per year for 2010-2014." These amounts do not account for the Governments of Ontario and the Northwest Territories who withdrew from the proceeding.

"Given the very low frequency of the making of compensable paper copies by government employees, the tariff the Board certifies is fair and equitable," Mr. McDougall added.

For more information, please contact:

Mr. Gilles McDougall

Secretary General

Copyright Board of Canada

Ottawa ON K1A 0C9

Telephone: 613-952-8624

Email: gilles.mcdougall@cb-cda.gc.ca

Note: The Certified Tariff, along with the Reasons and a Fact Sheet can be found on the Board's Website under "What's New – Recent Decisions" at: <http://www.cb-cda.gc.ca/home-accueil-e.html>.