

Copyright Board
Canada



Commission du droit d'auteur
Canada

FACT SHEET

Access Copyright Tariff – Elementary and Secondary Educational Institutions

February 19, 2016

1. What is the Copyright Board of Canada?

The Copyright Board of Canada is an independent, quasi-judicial tribunal created under the *Copyright Act* to establish the royalties to be paid for the use of works or other subject-matter protected by copyright, when the administration of these rights is entrusted to a collective society.

2. What is Access Copyright?

Access Copyright is a collective society that administers the reproduction right in published literary works for all of Canada, except Quebec, where it is administered by Copibec.

3. To whom does the tariff apply?

The tariff applies to elementary and secondary educational institutions in Canada, except in the province of Quebec.

4. What are the activities covered by the tariff?

The tariff permits elementary and secondary schools to make and distribute copies of published literary works, such as books, newspapers, periodicals and workbooks, within the limits set out in the tariff.

The tariff does not permit the making of digital copies or sheet music.

5. Which period does the tariff cover?

The certified tariff covers the period from 2010 to 2015. However, the tariff continues to apply on an interim basis until the Board certifies a new tariff for the subsequent years.

6. What are the royalty rates of the tariff?

The rates certified by the Board are \$2.46 per student per year for the period 2010-2012, and \$2.41 per student per year for the period 2013-2015.

7. What were the royalty rates based on?

The royalty rates are based in part on the results of a study of the volume of photocopying in educational institutions across Canada, except Quebec. This study was done by the parties; its results were filed with the Board as part of the process that led to the certification of the preceding tariff for the period 2005 to 2009. Parties agreed to use again the results of this study in the current proceeding, and the Board adopted this view.

8. What is the total amount of royalties that the tariff will generate?

The amounts of royalties that are likely to be generated by the tariff the Board is certifying are \$9.5 million per year for the period 2010 to 2012 and \$9.3 million per year for 2013-2015.

9. What were the rates proposed by the parties in the proceeding?

Access' initial proposed rates were \$15 per student for the 2010-2012 period and \$9.50 per student for the 2013-2015 period. Access later reduced its request to \$13.69 per student for 2010-2012 and maintained its request at \$9.50 per student for 2013-2015.

The Objectors to the Tariff, the ministries of education and the Ontario school boards, proposed a rate of \$0.49 per student for 2010-2012 and \$0.46 per student for 2013-2015.

10. What was the process leading to the certification of the tariff?

In March 2009 and 2012, Access proposed its tariffs for the periods 2010 to 2012 and 2013 to 2015, respectively. The Board later consolidated the examination of both tariffs.

The ministries of education of twelve Canadian provinces and territories (all, except Quebec) and each of the Ontario school boards filed objections to both tariffs proposed by Access.

The hearing began on April 29, 2014, and lasted 9 days. The oral arguments were presented on September 12, 2014. The record was finally perfected on December 19, 2014, once the parties answered the Board's additional questions.

11. Why does the tariff apply retroactively?

Access' ability to collect royalties retroactively stems from the law. Access is entitled by the *Copyright Act* to collect royalties set in a tariff from the date on which the tariff takes effect. That date is determined by the time at which the proposed tariff is filed, not by when the final tariff is certified. Access is required to file a proposed tariff by March 31 of the year before it

takes effect. Since Access filed its first proposed tariff on March 31, 2009, it is therefore entitled to collect royalties starting in 2010.

Note: The Certified Tariff, along with the Reasons and a News Release 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>.