



## ***Notice of Grounds for Proposed Tariff***

Access Copyright Post-Secondary Educational Institution Tariff

November 11, 2022

### **Description and examples of the activities covered by the proposed tariff**

This tariff applies to the reproduction and communication to the public by telecommunication, or the authorization of any such act of works in Access Copyright's repertoire in post-secondary education institutions. Examples of activities covered by the tariff include sharing excerpts of books, journals, newspapers, and magazines in paper and digital form as posts on learning management systems, as part of coursepacks, and as classroom handouts.

### **Description of the groups of users that are intended to be covered by the proposed tariff**

The tariff covers post-secondary educational institutions and persons acting under their authority, including students, staff and anyone who is entitled to in-person or remote library privileges at the education institution. The educational institutions must be located in Canada (but not in the province of Quebec) and provide post-secondary, continuing, professional, or vocational education and training.

### **Explanation of how the royalties were determined**

The proposed royalty rate is \$15.65 per full-time-equivalent student if the educational institution is a university or \$6.01 per full-time-equivalent student for all other types of post-secondary educational institutions. The proposed royalty reflects an inflationary increase based on the Board's established inflation adjustment methodology from the previously approved rate, which has been in place since 2019.

### **Explanation of how the information collected pursuant to the proposed tariff will be used**

For each course collection, the tariff requires each educational institution to report certain bibliographic information about the works in the course collection; information about the course for which it will be used; the number of authorized persons who will access it; information about the number of pages and sets copied; and whether a subcontractor is involved. This information is necessary for Access Copyright to fairly distribute tariff royalties to its affiliates. It will be used to identify relevant rightsholders for distributions and to calculate the royalties payable to each rightsholder. It also ensures that subcontractors are aware of reporting requirements and other terms of the tariff.

### **Explanation of changes from previously approved tariff**

Below are the changes from the previously approved tariff:

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1. Under the definition of “university”, the reference to “the Association of Universities and Colleges of Canada” has been removed since that entity became “Universities Canada”.
2. An additional clause was added to the proposed tariff to clarify that the tariff did not authorize the making available, distribution, or transmission of a repertoire work to a person who is not an authorized person.
3. Certain criteria have been added to the subcontracting section to ensure that Access Copyright is aware of any subcontracting arrangements educational institutions have entered into, and also to ensure that subcontractors are aware of reporting requirements and other terms of the tariff.
4. The proposed royalties reflect an inflationary increase, as described above. A prorated adjustment to the royalty payment has been included for academic years that straddle the tariff period.
5. As part of the payment process, Access Copyright proposes to add a requirement that Access Copyright issue an invoice once the educational institution provides Access Copyright with the number of full-time equivalent students.
6. For each course collection, the proposed tariff requires educational institutions to report certain bibliographic information about the works in the course collection; information about the course for which it will be used; the number of authorized persons who will access it; the number of pages and sets copied; and whether a subcontractor is involved.

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