



CANADIAN PRIVATE COPYING COLLECTIVE  
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## **Canada's private copying law is constitutional, says the Supreme Court**

(Toronto) The Supreme Court of Canada today dismissed the application of the Canadian Coalition for Fair Digital Access (CCFDA) who had sought to appeal the Federal Court of Appeal's ruling that Part VIII of the *Copyright Act* is validly enacted legislation. CCFDA was also denied leave to appeal the Federal Court of Appeal's finding that the Canadian Private Copying Collective (CPCC) has the right to continue to operate its Zero-rating Program.

"We are very pleased that the Supreme Court has dismissed CCFDA's claim that the private copying legislation is unconstitutional," said Claudette Fortier, Chair of the CPCC Board of Directors. "Their argument had already been rejected twice by the Copyright Board, and again by the Federal Court of Appeal. This puts an end to the matter."

The CPCC is also satisfied with the Supreme Court's confirmation that the CPCC is free to continue to operate its Zero-Rating Program. Under that program the CPCC allows businesses and other organizations that register with the CPCC to acquire blank audio recording media, such as CD-Rs, without paying the levy.

At the same time, however, the Supreme Court denied the CPCC's application for leave to appeal the Federal Court of Appeal's decision of December 14<sup>th</sup>, 2004 which declared the levy on memory permanently embedded in digital audio recorders set by the Copyright Board of Canada in 2003 to be invalid.

"We are disappointed with the Supreme Court's decision not to hear CPCC's appeal," said David Basskin, a member of the CPCC Board of Directors. "The clear result of this decision is that copying recorded music onto an iPod is illegal, unless the copying has been authorized by rights holders. Even the Federal Court of Appeal agreed that a levy on these recorders is desirable since they allow for such extensive unauthorized private copying, and that without this levy, the potential harm to rights holders is unprecedented."

The CPCC continues to believe that the levy on memory permanently embedded in digital audio recorders complies not only with the spirit of the law, but also with the definition of an "audio recording medium" in the Copyright Act. The CPCC will consider alternative options for reinstating a levy on the memory permanently embedded in digital audio recorders.

The CPCC collected the levy on memory permanently embedded in digital audio recorders set by the Copyright Board from December 2003 until the Federal Court of Appeal ruling in December 2004. The levies, which have been held in trust pending the Supreme Court's decision, will now be reimbursed to the reporting companies that submitted them to the CPCC.

The private copying levy provides significant remuneration to songwriters, music publishers, recording artists, musicians, and record companies for the use of their work. The levy is derived from the private copying provisions of the *Copyright Act* implemented in 1998 in recognition of the fact that Canadians copy without authorization hundreds of millions of tracks of recorded music every year for their own private use. Similar royalties are collected in over 40 countries around the world.

The Canadian Private Copying Collective is a non-profit agency charged with collecting and distributing private copying royalties. Established in 1999, the CPCC is a collective of collectives that represent songwriters, music publishers, recording artists, musicians and record companies.

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