

**Written Submission for the Standing  
Committee on Finance (FINA) Pre-  
Budget Consultations in Advance of  
Budget 2025**

**August 2, 2024**



**Canadian Private Copying Collective**

**Lisa Freeman, Executive Director**

**Recommendation:** That the government amend the *Copyright Act* to make the private copying regime technologically neutral, requiring large technology companies to finally pay their fair share to copyright holders. The focus of these amendments would be to allow the regime to apply to both audio recording media and devices.

## Introduction

In a cost-of-living crisis, the Government of Canada has a duty to ensure that businesses and individuals can compete and earn a fair wage. In the music sector, there is a clear path forward that the Government has not yet taken: making the private copying regime technologically neutral.

The Canadian Private Copying Collective (CPCC) represents recording artists, composers, songwriters, music publishers, and labels. Under the *Copyright Act*, manufacturers and importers of blank audio recording media pay CPCC royalties through a small levy on each unit imported and sold in Canada. This compensates music rights-holders for unlicensed private copying of their work.

“Private copying” means making copies of your music collection for personal use. While technology has made it easier for consumers to copy music, rights-holders often cannot authorize, prohibit, or monetize these copies. To address this, Canada’s *Copyright Act* was amended in 1997 to allow private copying onto audio recording media, with a corresponding levy to remunerate creators and music companies.

## Current Situation

Private copying royalties have dramatically decreased because the *Copyright Act* has not kept up with technology, limiting the regime to levies on only the near-obsolete blank CD since 2010. Annual royalty income has plummeted from \$38 million in 2004 to less than \$1 million in 2023, even as copying activity has surged. Large technology companies profit from unlicensed private copying on the phones and tablets they sell, while rights-holders remain uncompensated.

In contrast to the situation in Canada, global collections of private copying royalties rose from €669 million in 2015 to €1.046 billion in 2018.<sup>1</sup> That’s because the dozens of countries around the world with functioning private copying regimes – including Austria, Belgium, Croatia, France, Germany, Hungary, Italy, Morocco, Netherlands, Paraguay, Portugal and Switzerland – extend levies to a wide variety of devices. Canada must follow suit to ensure our rights-holders are also fairly compensated.

---

<sup>1</sup> <https://www.cisac.org/Newsroom/news-releases/new-private-copying-global-study-shows-potential-better-remuneration>

Canada's copyright framework has to keep up with a rapidly evolving digital marketplace so our members – artists, businesses, and the entire recorded music sector – can earn a living. Copyright is the paycheque for rights-holders.

## Solution

**The CPCC asks that the government amend the *Copyright Act* to make the private copying regime technologically neutral, requiring large technology companies to finally pay their fair share to copyright holders. The focus of these amendments would be to allow the regime to apply to both audio recording media and devices.**

With these amendments, the regime would revert to its original intent: a flexible, technologically-neutral system that monetizes private copying that is beyond the control of rights-holders.

Passage of these amendments would make it possible for the CPCC to ask the Copyright Board of Canada to approve a levy on the smartphones and tablets where Canadians now make their private copies, and that process would remain the same. For two decades, the CPCC has represented its members before the Copyright Board in trial-like public hearings where experts – representing music rights-holders, consumers, and the businesses that sell leviabile media – present evidence and are cross-examined.

The Copyright Board would ultimately need to approve and determine the value of any levy on devices, but **CPCC's proposal is a small fraction of the cost of a device, comparable to the average levy payable on a smartphone in Europe: around CDN\$3.<sup>1</sup> A \$3 levy on sales of phones and tablets would generate about \$40 million a year to help keep Canadian creators and music companies making music.** As always, the levy would be payable by manufacturers and importers of the device, and in the case of many smartphones and tablets, that cost is amortized over the life of consumers' multi-year contracts with intermediary companies that provide these devices in a bundle with mobile network services.

The House of Commons Standing Committee on Finance has previously supported this proposal. In advance of the 2019 Budget, FINA's pre-budget report included the following recommendation: ***"Work with the Canadian Private Copying Collective to examine both an interim and permanent solution to ensure rights holders continue to receive compensation for unlicensed private copies made of their music."***

---

<sup>1</sup> CPCC analysis of data from [Private Copying Global Study – Law and Practices 2020](#).

We also note the inclusion of the recommendation by the FINA committee in their Budget 2021 report, calling on the government to ***“complete the review of the Copyright Act during the year by making the necessary amendments to the Act to ensure that rights-holders receive fair compensation for the use of their works,”*** and in their Budget 2023 report, asking the Finance Minister to ***“immediately amend the Copyright Act to ensure that it protects all creators and copyright holders and that it implements market-based solutions that encourage fair remuneration of rights-holders for use of copyright-protected work.”***

**Private copying royalties are a data-based, market-driven method** for government to inject funds into the music sector without spending a dollar of public money. By enacting minor amendments to the *Copyright Act* at the earliest opportunity, in the Fall Economic Statement or in Budget 2025, the Government of Canada can directly help rights-holders combat the cost-of-living crisis through fair compensation for their work.

CPCC also proposes minor revisions to the *Act* to clarify that this exception to copyright infringement does not extend to offering or obtaining music illegally, whether through an unlicensed online service, stream-ripping, or by stealing an album from a store – such activity remains illegal. The private copying regime is for copying that cannot be controlled.

A functioning copyright framework is a critical building block to a thriving Canadian music sector – rights-holders with predictable, healthy royalty streams produce both cultural riches and employment and investment opportunities for creators, labels, publishers, managers, recording engineers, live music venues, and thousands of other Canadians from coast to coast to coast.

### **Industry-Wide Support for Private Copying**

During the Statutory Review of the *Copyright Act* begun in 2017, **private copying reform was among the issues most widely supported** in submissions from any sector, leading to a recommendation from the Standing Committee on Industry, Science and Technology that the government should *“extensively assess the opportunity to extend the private copying regime to digital devices.”*

In July 2020, CPCC submitted a letter to the Minister of Canadian Heritage and the Minister of Innovation, Science, and Industry, signed by CPCC and 19 other music-industry organizations, urging the government to amend the *Copyright Act* to bring technological neutrality to the private copying regime. On June 1st, 2023, representatives from across the recorded music industry met with ministerial and departmental representatives to demonstrate the breadth of sector support

for the private copying regime and to articulate its importance for their members and stakeholders. An updated *Copyright Act* that includes a technologically-neutral private copying regime is critical to the post-pandemic, long-term recovery of Canada's recorded music sector.

We also stand with our cultural sector partners in their asks for copyright reform, including the definition of sound recording, fair dealing, and artist's resale right.

## **Conclusion**

The Canadian music sector is at a critical juncture. The Government of Canada must act to ensure that rights-holders receive fair compensation for the use of their works, to enable the sector's long-term recovery and growth.

Private copying is a data-based, market-driven method for the Government to invest in the music sector without public expenditure. By updating the private copying regime at the earliest opportunity, in the Fall Economic Statement or in Budget 2025, the Government can help rights-holders combat the cost-of-living crisis through fair compensation for their work.

The CPCC urges the Government of Canada to prioritize copyright reform to ensure a thriving Canadian music industry.