

FAQ – Extending the Private Copying Levy to MP3 Players

Why should the private copying levy be extended to MP3 players like the iPod?

The private copying levy exists to provide fair compensation to songwriters, composers, music publishers, recording artists, musicians and recording companies for private copies made of their music. Currently, the levy only applies to CD-Rs. The time has come to extend the levy to reflect how private copies of music are actually made today – not how they were made a decade ago. Of the 1.9 billion songs copied annually in Canada, 62% are copied onto MP3 players like the iPod. Modernizing the levy by extending it to MP3 players will bring the current copyright legislation in line with the way people use and copy music today.

Why is this so “urgent”?

MP3 players have become the method of choice for copying music. The percentage of private copies being made on to CD-Rs is decreasing significantly. Revenue from the current levy has dropped 68% since 2008 and is drying up quickly. Rights holders are no longer being compensated for the majority of private copies being made of their music. Canadians have changed the technology used to copy music – our copyright law needs to change also, so that artists, songwriters and other rights holders can continue to receive the compensation to which they are entitled.

Isn't this just another tax?

No. The private copying levy is not a tax. It is a royalty paid to music rights holders. Unlike a tax, which is collected by the government, the private copying levy is collected by the Canadian Private Copying Collective (CPCC) to provide remuneration to rights holders for private copying. Copies of music have value – if they didn't people wouldn't make them. The private copying levy is earned income for rights holders and helps them to continue to create music.

Even if it is not a tax, is it true that the levy on MP3 players will be \$75?

No one is seeking a \$75 levy. When the levy was applied to MP3 players in 2004 it ranged from \$2 to \$25 depending on the capacity of the device. The CPCC, the organization that collects and distributes the private copying levy, anticipates a similar range if a levy was applied today. The levy rate is set by the Copyright Board of Canada after an open hearing to determine appropriate rates.

If there was a levy applied to MP3 players in 2004, why isn't it applied today?

The Federal Court of Appeal ruled that Part VIII of the *Copyright Act* (which deals with private copying), as it interpreted it, did not apply to devices. The Court's decision was based on distinguishing between copying onto a “medium” and copying onto a “device” – MP3 players were characterized as devices, rather than as media (like the CD-R). In its decision the Court expressed understanding of why the Copyright Board wanted “to go as far as it could to bring MP3 players within the ambit of Part VIII [of the *Copyright Act*].” Only the federal government can make this change.

Is there going to be a levy on smart phones, computers or anything with internal memory?

The CPCC is only interested in devices that are designed, manufactured and advertised for the purpose of copying music.

Artists already get compensated from their CDs, shows, merchandise and through iTunes. Isn't that enough?

In 1997, when the Copyright Act was last updated, Canadian law established that rights holders deserve compensation when private copies are made of their music. For most artists, every revenue stream is important in continuing their careers. The private copying levy can make the difference between recording a new album and abandoning their craft.

Every time an MP3 player is sold the manufacturer, distributor and retailer get paid – but the rights holders that created the music, which is the reason the MP3 player was purchased, receive nothing – that's not fair.

Don't artists get paid for music downloaded onto iPods that was purchased through iTunes?

Yes, but only about 9% of songs copied onto MP3 players like the iPod are legally downloaded and purchased. In other words, over 90% of the time, artists aren't being compensated for private copies made onto iPods.

Why not simply tighten the laws and increase penalties around illegal downloading of music, just as the government has suggested?

The CPCC supports all measures aimed at ensuring artists receive fair compensation for the use of their work. However, what the government has proposed will continue to allow private copying, yet it will deny artists appropriate compensation for this use of their music.

Modernizing the levy by extending it to MP3 players will ensure that the copyright legislation reflects the change in technology used to make private copies. It is the position of the Canadian Private Copying Collective that artists are entitled to payment for all uses of their music and that the private copying levy does not legalize or legitimize the act of P2P file sharing.

For more information, please visit www.playfairnow.ca.

The Canadian Private Copying Collective (CPCC)

Established in 1999, the CPCC is an umbrella organization whose member collectives represent songwriters, composers, music publishers, recording artists, musicians and record companies. The CPCC is the non-profit organization responsible for collecting and distributing private copying levies.

www.cpcc.ca