

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date 2004-12-14

Citation File: Private Copying 2005

Regime Copying for Private Use
Copyright Act, subsection 66.51

Members Mr. Stephen J. Callary
Mrs. Sylvie Charron
Ms. Brigitte Doucet

Interim tariff of levies to be collected by CPCC in 2005 on the sale of blank audio recording media, in Canada, in respect of the reproduction for private use of musical works embodied in sound recordings, of performer's performances of such works and of sound recordings in which such works and performance are embodied

Reasons for decision

The Canadian Private Copying Collective (CPCC) has filed with the Board a proposed tariff for private copying in 2005. Four associations and corporations, including a group of retailers of blank audio recording media (the "Retailers") have objected to the proposed tariff.

On August 6, 2004, CPCC asked that the matter be dealt with expeditiously. On August 31, 2004, the Retailers objected to the matter being dealt with expeditiously and asked that the Board adopt for 2005 an interim tariff that would be at least 25 per cent lower than the *Private Copying Tariff, 2003-2004*. In so doing, the Retailers relied on the record of previous proceedings and unspecified public pronouncements of the CPCC and its stakeholders. On September 3, 2004, CPCC concurred with the need to set an interim tariff, adding that, in its view, the existing record amply supported the certification of a tariff that mirrors the present tariff. Other objectors agree that the current tariff ought to be extended as is on an interim basis.

For reasons that need not be stated in this decision, the Board has not yet set in motion the process for examining the proposed tariff. The current tariff ends on December 31, 2004. Given the application made in this regard and in order to avoid the regulatory vacuum that would result in the absence of a tariff, the Board extends indefinitely, on an interim basis, the application of the *Private Copying Tariff, 2003-2004*. This tariff will remain in force, unless modified, until the final tariff is certified for the period commencing January 1, 2005. The arguments the Retailers advance in support of a lower interim tariff are without merits. The nature of the relevant market

demands a certain stability. Furthermore, it will be relatively easy for CPCC to remit overpayments if the final tariff is less than the interim tariff; it will however be virtually impossible for it to collect underpayments if the final tariff is more.

A handwritten signature in black ink that reads "Claude Majeau". The script is cursive and fluid, with the first letter of each word being capitalized and prominent.

Claude Majeau
Secretary General