

NOTICE OF GROUNDS FOR PROPOSED TARIFF

Filed with the Copyright Board by Canadian Private Copyright Collective on 2023-10-13
pursuant to Rule 15 of *Copyright Board Rules of Practice and Procedure*

PRIVATE COPYING TARIFF, 2025-2027

I. Description of Uses Covered by the Proposed 2025-2027 Private Copying Tariff (the “Tariff”) (Paragraph 16(a) of the Copyright Board Rules of Practice and Procedure (the “Rules”)

The Tariff sets the levy payable to Canadian Private Copying Collective (“CPCC”) by manufacturers and importers of blank CDs for the private copying of pre-recorded music on blank CDs by individuals, pursuant to section 83(1) of the *Copyright Act*.

II. Basis for the Proposed Levy Rate (Paragraph 16(b) of the Rules)

The Tariff proposes a 29-cent levy rate per blank CD, which has been the rate continuously approved by the Copyright Board since 2008. As previously accepted by the Board, the 29-cent levy rate is a marketplace reality and reflects what would have been agreed upon between a willing buyer and a willing seller in a competitive market. In addition, a levy calculated by other means would almost certainly be higher than 29 cents. There is no economic rationale that would justify an adjustment to the levy rate. Instead, the Board’s reasoning in keeping the levy rate constant for a medium that is at the end of its life cycle, but continues to be ordinarily used to copy music, is both prudent and consistent with economic analysis and theory.

III. Description of Users Covered by the Proposed Tariff (Paragraph 16(c) of the Rules, Practice Direction dated March 1, 2023)

The Tariff applies to manufacturers and importers of blank CDs. It does not apply to any other user. In addition, no levy is payable for sales of CDs that are exported from Canada or those that are provided to an organization that represents persons with a perceptual disability. Further, a “Zero-Rating Program” is run voluntarily by the CPCC in recognition of the fact that many companies and organizations use leviable blank media for their business purposes. The program allows companies registered in the program to purchase and/or sell blank media at a “zero-rate” from authorized sellers.

A list of companies reporting to CPCC under the current certified tariff is available on CPCC's website here: <https://www.cpcc.ca/en/wp-content/uploads/2021/10/Reporting-Companies-EN-October-2021.pdf>. As one example, Western Imperial Magnetics Ltd. currently imports the blank CD brands Adtec, CMC Pro, Falcon, Flexdisc and Verbatim and reports units sold or otherwise disposed of in Canada to CPCC for the purpose of the tariff.

IV. How Collected Information Will be Used (Paragraph 16(c) of the Rules, Practice Direction dated March 1, 2023)

Tracking the disposition of all brands and units of blank CDs in the marketplace is essential to enable CPCC's enforcement of the tariff. The name and contact information, number of units to which the levy applies, and type of CD (brand name and recording capacity) are used by CPCC to verify the levies payable, and the accuracy of the information provided by the user. Information about brand names assists CPCC in tracking the provenance of all blank CDs in the marketplace, to ensure all users covered by the tariff are in compliance. Information about the number of blank CDs exported, and the number of blank CDs provided to an organization that represents persons with a perceptual disability, help substantiate how a user has disposed of all units they have imported to Canada. All this information assists CPCC and the users in determining which units are subject to the levy, and which are not.

V. Explanation of All Proposed Changes between the Proposed Tariff and Private Copying, 2022-2024 (Paragraph 16(c) of the Rules, Practice Direction dated March 1, 2023)

The only proposed changes from the 2022-2024 Private Copying Tariff to the Proposed Tariff are the dates covered by the Proposed Tariff, the removal of references to SODRAC 2003 Inc. ("SODRAC") to reflect the acquisition of SODRAC by the Society of Composers, Authors and Music Publishers of Canada ("SOCAN"), and changes made to comply with the Copyright Board's practice notices on form. No other substantive changes are proposed.