

**FACT SHEET**  
**CANADIAN PRIVATE COPYING COLLECTIVE**  
**MEETING ON WEDNESDAY, OCTOBER 4, 2017**

- On Wednesday, October 4, 2017, you will meet Eric Baptiste, the Chief Executive Officer of the Society of Composers, Authors and Music Publishers of Canada (SOCAN), in his role as acting President of the Canadian Private Copying Collective (CPCC). He will be joined by Lisa Freeman, the Executive Director of the CPCC, and Sean Casey, Vice President, Cultural Industries at Global Public Affairs.

**Background**

- Established in 1999, the CPCC is a non-profit, umbrella organization whose member collectives represent songwriters, recording artists, music publishers and record companies. They are responsible for collecting and distributing private copying levies on behalf of its member collectives.
- Canada's private copying regime attaches levies to sales of blank audio recording media (e.g., blank CDs and blank cassettes), a measure adopted alongside an exception for copying of music onto an audio recording medium for personal uses in 1997. In a nutshell, the regime legalized private copying of music while providing rights holders with compensation in the form of a levy. The tariff for the levy is fixed by the Copyright Board. Royalties are divided amongst CPCC members based on sales figures and radio airplay.
- The CPCC last met with you in December 2016, to draw your attention to the decline in revenues of the private copying regime, from a high of \$38 million to an anticipated \$2 million in 2017. The CPCC expressed hope that the parliamentary review would result in legislative changes that would render the private copying regime technologically neutral and thus extend the levy to all digital media. As a transitional measure until legislative changes would be implemented, the CPCC requested a \$35 million Private Copying Compensation Fund which could be funded through the spectrum auction.
- The CPCC indicates that they wish to discuss Canada's copyright laws as a tool to support music creators.

**Considerations (issue)**

- With the CD format in decline, some countries, particularly in Europe, have updated their legislation to expand the type of devices that are subject to their private copying levy. Other jurisdictions, however, have been content with leaving the scope unchanged and letting the revenues collected and distributed fall over time. According to the most recent survey from the World Intellectual Property Organization (WIPO), Europe accounts for 90.9 percent of total revenues derived from private copying regimes worldwide, buoyed by the regimes in countries such as France and Germany, whereas declines similar to Canada's are occurring in countries such as Japan, Poland and Portugal. The CPCC regularly cites France as the gold standard, where levies apply to most devices with the exception of personal computers. The French regime generated EUR\$228 million for rights holders in 2014.

- In 2005, the Federal Court of Appeal overruled a Copyright Board decision extending the blank media levy to MP3 players. The Court found that such devices were not an “audio recording medium” as per the intention of the *Copyright Act* (Act).
- In 2012, the Government introduced regulations under the Act that explicitly excluded micro-SD cards (high capacity, compact digital memory cards used as storage in a number of digital devices, such as smart phones, cameras, and computers) from the private copying levy. The regulations were formulated to recognize that micro-SD cards are used to make copies of all types of information (pictures, emails, text messages, etc.), not just audio files.
- Also in 2012, a broader user exception was created in the Act for the copying of any copyrighted work for private, non-commercial purposes on any medium or device (known as the “format shifting” exception). However, this exception does not apply to copies of music made on an audio recording medium, effectively grandfathering in the private copying regime at the time.
- Audio streaming services, such as Spotify, are replacing sales, both physical and digital, as the dominant mode of music consumption. This shift correlates with the drop in CPCC private copying revenue. In addition, legal downloads and streaming services often include the ability to make limited copies, meaning digital copying was included in the licenses negotiated between rights holders and digital service providers.
- Several issues put into question the relevance and sustainability of a private copying regime in the digital era:
  - Were the Copyright Board to fix a private copying tariff for new devices with a multitude of other uses, it is unclear if those tariffs would generate significant royalties in the Board’s analysis.
  - Extending the private copying regime to digital devices would require considering why the levy should only compensate music, while copying of other cultural content is subject to the general “format shifting” exception.
  - A functional, fully-licensed music streaming marketplace reduces the practice of unlicensed copying by consumers.
- Nonetheless, the CPCC points to stream ripping – i.e., downloading an unlicensed copy of a legal stream, such as from YouTube – as an ongoing source of unlicensed copying. A recent study by the International Federation of the Phonographic Industry found that 27 percent of Canadians, and 43 percent of Canadians aged between 16 to 24 years old reported stream ripping over the past year.

#### Attachments

Prepared by: Ian Dahlman, Copyright and International Trade Branch, 819-953-6236  
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### Speaking points

- Canada is committed to a copyright framework that addresses the needs and interests of all Canadians. It is an important issue for Canadians, and key to our economic and social prosperity in the digital age.
- A parliamentary review of the *Copyright Act* is mandated to begin after November 2017. The review will provide an opportunity for parliamentarians to consider issues, such as those you have raised, in regard to Canada's copyright regime.
- We will continue working proactively and openly with all stakeholders and interested Canadians on copyright issues.
- **[Assuming CPCC provided submissions to the Copyright Board consultations, which closed on September 29]** - Thank you for your submissions to the consultations on potential reforms to the Copyright Board. As the consultations have only just closed, we are now in the process of reviewing the submissions to identify which, if any, reforms to implement.
- How does compensation for private copying fit into the bigger picture of compensation artists receive for their works? What portion of their income do they derive from the levy? How does the increasingly licenced context of streaming services translate into artist remuneration?
- What are the administrative costs associated with the Canadian Private Copying Collective?
- We are living in a world where technology can increasingly facilitate tracking and control of the use of music, where the music industry is shifting from sales to streaming as the dominant mode of consumption, and where technological devices used to consume music are also used for a huge variety of other purposes. In this context, how can the Government best support creators?

- Cdns are copying more today than before. 25B acts of private copying in Canada.

\* Bridge solution of \$ per private copying regime. \$40m  
4 year fund.

- In europe, rate averages \$3.50 per device (would yield 40m in Canada)

- Δ the legislation will take too long

s.20(1)(b)

**BIOGRAPHY**  
**ERIC BAPTISTE**



**Eric Baptiste**  
**Acting President, Canadian Private Copying Collective**  
**CEO, Society of Composers, Authors and Music Publishers of Canada (SOCAN)**

Eric Baptiste is the Acting President of the CPCC. He has served on CPCC's board for a number of years including as Vice Chair.

He is also the CEO of the SOCAN. SOCAN represents the performing rights of songwriters, composers and music publishers and collects licence fees through a music licensing program approved by the Copyright Board of Canada.

Prior to joining SOCAN, he worked for eight years in radio in France, including as General Manager of RFI (French public international radio), and was Director General of the International Confederation of Societies of Authors and Composers (CISAC) for close to 12 years.

He also serves as non-executive Chairperson of the Board of the CISAC, Vice-Chair of the Board of Fast Track, the global technical alliance among 13 Copyright societies as well as Chairperson of the Board of the International ISAN Agency.

A graduate from the Institut d'Études Politiques de Paris and the École nationale d'administration, Eric Baptiste was awarded the French government's *Chevalier dans l'Ordre des Arts et des Lettres* in 2006.

## **BIOGRAPHY SEAN CASEY**



### **Sean Casey, Vice President, Cultural Industries at Global Public Affairs**

Sean Casey is the Vice President of Cultural Industries at Global Public Affairs. He advocates on behalf of a variety of organizations representing the film, television and music industries regarding public policy issues in the arts and culture sector. In addition to representing his current client, the Canadian Private Copying Collective, he has in the past represented the Canadian Independent Music Association, Ole, the Canadian Musical Reproduction Rights Agency Ltd., the Canadian Music Publishers Association, the Canadian Arts Coalition, the Association of Canadian Publishers, and many others.

He joined Global Public Affairs after eight years as a partner with True North Public Affairs. Prior to that he served in various positions for three members of Parliament, the Opposition House Leader and in the Office of the Leader of the Opposition, the Honourable Stephen Harper.

## **BIOGRAPHY**

### **LISA FREEMAN**



**Lisa Freeman**  
**Executive Director, Canadian Private Copying Collective**

Lisa Freeman has been the Executive Director of the CPCC since February 2017.

Before joining CPCC, she held various positions with organizations having an emphasis in cultural policy and copyright. She was a member of the senior management team (Manager Research, Strategic Planning and IT) with the Ontario Media Development Corporation, a provincial agency responsible for providing programs, services and funding for Ontario's film and television; book and magazine publishing; interactive digital media and music industries. She was also an Associate Consultant with Paul Audley & Associates Ltd., providing research and analysis and project management for intellectual property rights organizations, primarily in the music industry.

She graduated from York University's Schulich School of Business with an MBA in 2000.



**Claude Brunet, Legal Counsel, Canadian Private Copying Collective**

### **Practice Areas**

Intellectual property law, with particular expertise in copyright, the entertainment and publishing industries and applications before the Copyright Board. Advises clients on all aspects of their copyright portfolio. Represents clients with respect to the certification of proposed royalty tariffs as well as in infringement proceedings and before Parliament in the copyright revision process.

### **Professional Memberships**

ALAI; Association des Juristes pour l'Avancement de la Vie Artistique (AJAVA); IPIC (Intellectual Property Institute of Canada).

### **Career**

Senior Partner. Quebec Bar 1971. Canada (trademarks) 1994.  
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