

## **ACP statement on litigation between K-12 sector and Access Copyright**

TORONTO, ONTARIO—(July 23, 2018)—The Association of Canadian Publishers (ACP) notes that Access Copyright has served and filed its Statement of Defence and Counterclaim in the legal action initiated by Ontario school boards and the Ministries of Education for all provinces and territories except Ontario, British Columbia and Quebec. Together those plaintiffs are seeking to recover more than \$25 million collected by Access Copyright under a legally certified tariff for the period of 2010-2012.

Access Copyright’s counterclaim relies on the fact that the plaintiffs have not paid the mandatory and enforceable certified tariff that has been in place ever since 2013, and they now owe more than \$24 million to Canadian creators and publishers—not the other way around. ACP shares this understanding of the facts.

Access Copyright’s filing reminds the Court that the tariff rates established by the Copyright Board take fair dealing and other non-compensable copying into account, and that the tariff compensates authors and publishers for copying that goes beyond legal limits. After careful examination of evidence, the Board found that K-12 schools copy 150 million pages of copyright-protected works each year that require compensation.

Despite this, the plaintiffs claim they are exempt from paying tariffs certified by the Copyright Board. As was made clear by the Federal Court of Canada in its July 2017 decision on *Access Copyright vs. York University*, tariffs certified by the Copyright Board are mandatory and enforceable; institutions—like the Ministries of Education and Ontario school boards—cannot “opt out” and refuse to pay for the copies they make.

ACP stresses that the Copyright Board’s capacity to resolve impasses only works when all parties respect its decisions. ACP continues to call on Ministries of Education and Ontario school boards to drop their hostile legal action, which appears to be intended to undermine Canadian authors and publishers’ collective licensing society, Access Copyright.

Canadian publishers remain committed to working towards constructive solutions that benefit both students and Canada’s creative sector, and we support a return to negotiations at the earliest possible opportunity. We look forward to continuing to create and develop authentic, Canadian resources for Canadian schools, students and teachers. Attacking our sector damages an expert and efficient supplier to Canadian schools, it contradicts the provinces’ stated support for our sector, and it reduces the employment opportunities available to Canadian students. It is in no one’s interests.

The ACP is the national voice of Canada’s independent English-language book publishers. The ACP supports its 115 members in creating an economically sustainable Canadian-owned and -controlled publishing industry. Visit [www.publishers.ca](http://www.publishers.ca) for more information about the association’s programs and mandate.

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