



FOR IMMEDIATE RELEASE

## **Canadian Publishers Deeply Concerned by Implications of Court Decision Underscoring Canada’s Broken Copyright Framework**

*Copyright holders have not received fair remuneration for the copying of their work by educational institutions since changes to the Copyright Act in 2012*

March 1, 2024

The Association of Canadian Publishers (ACP) expresses deep concern and disappointment regarding the recent Federal Court decision in the legal action involving the Ontario school boards and Ministries of Education (outside of Quebec and British Columbia) against Access Copyright. This decision only stresses the pressing need for comprehensive reform of Canada's outdated copyright regime.

In solidarity with Access Copyright and fellow writing and publishing organizations across the country, ACP calls on the federal government to introduce legislative changes to Canada’s broken copyright framework to ensure that publishers and creators are fairly compensated for the use of their work by the educational sector. [Access Copyright’s statement on the decision is available to read here.](#)

In the recent federal case, the court declined to find that primary and secondary schools were voluntary licensees under the Access Copyright 2010–2015 tariff. This decision was made despite an earlier conclusion from the Copyright Board of Canada that the K-12 sector made more than 150 million compensable copies per year during that period, even after accounting for changes to fair dealing and other copyright exceptions. This decision, coupled with the ongoing challenges faced by publishers and creators, highlights the deficiencies in Canada’s current copyright law.

After more than a decade of market damage stemming from changes to the *Copyright Act* in 2012, publishers and creators have lost over \$200M in licensing revenues from being inadequately compensated for the copying and sharing of their works in K-12 and post-secondary schools outside of Quebec. Despite their commitment in Budget 2022 to ensure a sustainable educational publishing industry and fair remuneration for copyright holders, the government has taken no action on copyright reform to date.

The ACP urges the federal government to address the inadequacies of the *Copyright Act* and deliver on its commitment to creating a fair and sustainable environment for creators. We call on the implementation of the recommendations outlined in the Standing Committee on Canadian Heritage's *Shifting Paradigms* report, and implore the government to:

- amend the *Copyright Act* so that fair dealing only applies to institutions where a work is not commercially available under licence by the owner or a collective;
- amend the *Copyright Act* to clarify that tariffs approved by the Copyright Board of Canada have always been enforceable against infringers of copyright-protected works subject to tariffs; and,
- amend the *Copyright Act* so that statutory damages are rebalanced to deter mass uncompensated copying by institutions.

The current deficiencies in the *Copyright Act* and the inability for collective bodies, like Access Copyright, to enforce approved tariffs have created an environment of systemic, unpaid educational copying in Canada. Without a copyright regime that encourages investment in Canadian learning materials, students will continue to be deprived of Canadian perspectives in the classroom.

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*ACP is the national voice of English-language Canadian-owned book publishers. ACP contributes to the development and maintenance of vibrant, competitive book publishing companies in order to support and strengthen the contribution that Canadian books make to Canada's cultural, economic, and educational landscape.*

**For more information, contact:**

Jack Illingworth, Executive Director  
Association of Canadian Publishers  
[jack\\_illingworth@canbook.org](mailto:jack_illingworth@canbook.org)