



## Student's Perspectives on the Proposed Legislative and Regulatory Changes to the Copyright Board of Canada

The Canadian Alliance of Student Associations (CASA) is a not-for-profit, non-partisan student organization composed of 22 student associations representing 255,000 post-secondary students. Through its partnership with the Quebec Students Union (QSU) and their 8 member associations representing 77,000 students from Quebec, CASA presents a national student voice to the federal government.

CASA believes that any academically qualified student with the desire to pursue post-secondary education (PSE) should not face a barrier – financial, social, political, physical, cultural, or otherwise – to that education. Post-secondary students are directly impacted by the decisions of the Copyright Board of Canada through its role in setting tariffs on copyrighted educational material.

While tariffs are allocated to PSE institutions, they are often directly passed on to students as ancillary fees.<sup>1</sup> An ancillary fee is a **mandatory fee** that students pay directly, above the cost of tuition. While the costs of tariffs, such as the recently proposed \$26 annual per-student fee, might not seem like very much at first glance, it adds up from a student's perspective:

- Many students are already dealing with substantial debt loads to finance their PSE
- 50% of graduating students in 2015 reported going into debt to finance their education and among those with debt, the average was \$26,819<sup>2</sup>
- In 2013-2014, 35.7% of students receiving financial aid through the Canada Student Loans Program received the maximum available loan amount, meaning they likely had financial need that exceeded the aid available to them<sup>3</sup>
- For the 50% of students using debt to pay for their education, \$104 (\$26 x 4 years) ends up costing more than that, because their loan compounds throughout the time it takes them to pay it back<sup>4</sup>

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<sup>1</sup> "2013-2014 Fall/Winter Graduate Tuition & Related Fees, Financial and Administrative Services, Brock University," accessed April 2017, <https://brocku.ca/safa/wp-content/uploads/sites/22/2013-Graduate-Tuition-Fees.pdf>

<sup>2</sup> *2015 Graduating University Student Survey, Master Report* (Canadian University Survey Consortium, July 2015), 36. Accessed online: [http://www.cusc-ccreu.ca/CUSC\\_2015\\_Graduating\\_Master%20Report\\_English.pdf](http://www.cusc-ccreu.ca/CUSC_2015_Graduating_Master%20Report_English.pdf)

<sup>3</sup> *Actuarial Report on the Canada Student Loans Program as at 31 July 2014* (Ottawa: Office of the Chief Actuary, 2015), 70. Accessed online: [http://www.osfi-bsif.gc.ca/Eng/Docs/CSLP\\_2014.pdf](http://www.osfi-bsif.gc.ca/Eng/Docs/CSLP_2014.pdf)

<sup>4</sup> Nelly Cancilla, Bobby Glushko, Stephanie Organo and Graeme Slaght, "Engaging Faculty and Reducing Costs by Leveraging Collections: A Pilot Project to Reduce Course Pack Use," *Journal of Librarianship and*



These fees add to the cost of PSE, impacting both its accessibility and quality. Alongside tuition, textbooks and living costs, these fees are of vital concern to students country-wide. Copyright Board processes and decisions, including how tariffs are ruled to be fair and the reasons why tariffs are set, impact directly on students. Students must have the ability to understand and comment on Copyright Board processes in a way that is respectful of their often limited resources.

The Copyright Board's existing decision-making processes are complex and technical, leaving them difficult for non-experts to access and prohibitively costly for all but the most well-resourced organizations.

As a result, fee allocations appear to be generated in an arbitrary fashion that provides the end user with little ability to assess the value of what they are being charged. In the case of the Access Copyright tariff levied on post-secondary institutions, the royalty fee has varied significantly over the course of the previous three (2011-2013, 2014-2017 and 2018-2020) agreements. Though the shift over this time has led to lower levies, students are left to wonder why previous royalty agreements were justified.

Even if a stakeholder were prepared to participate in Copyright Board processes, many of the tools to do so are exceedingly costly and well beyond the means of most public interest organizations. Intervenor status alone requires the commitment of significant resources that are beyond what should be expected from interested parties such as students.

CASA is encouraged that the Copyright Board is cognizant of these issues and that it provided helpful recommendations to address them in a 2015 discussion paper. The suggestions for improving the identification and disclosure of issues during a tariff proceeding would help stakeholders better understand how and why tariffs are set. As stated in the discussion paper, explanations for why a tariff is being proposed are currently provided later in the process and only if an objector has requested the information.<sup>5</sup> This is vital information that should be clearly presented alongside tariff proposals to allow for meaningful comment from students and other interested stakeholders.

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*Scholarly Communication* 4 (2017): 3. Accessed online: <http://ilsc-pub.org/articles/abstract/10.7710/2162-3309.2137/>

<sup>5</sup> *Working Committee on The Operations, Procedures and Processes of The Copyright Board, Discussion Paper on Two Procedural Issues: Identification and Disclosure of Issues To Be Addressed during a Tariff Proceeding and Interrogatory Process* (Ottawa: Copyright Board of Canada, 2015), 4.



CASA believes that improved overall transparency and active engagement with relevant stakeholders would help make the Copyright Board more efficient and responsive.

**Recommendations:**

- That the Copyright Board adopt its sixth recommendation from their 2015 discussion paper which states that: “a collective should be required to provide, with the proposed tariff, information about the content of a tariff of first impression and of the nature, purpose and ambit of any proposed material change to an existing tariff.”
- That the Copyright Board adopt the government’s fifth recommendation (5a) from the 2017 consultation paper which states that the Board: “require collective societies to include additional explanations with proposed tariffs.”<sup>6</sup>
- That the Copyright Board provide an opportunity for public interest / non-commercial stakeholders to intervene in hearings and contribute legal argument without involvement in the interrogatory process.

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<sup>6</sup> *A Consultation on Options for Reform to the Copyright Board of Canada* (Ottawa: Department of Innovation, Science and Economic Development, Department of Canadian Heritage, Copyright Board of Canada, 2017), 10.