

Impact of Supreme Court Copyright Decision Limited to Small Proportion of Copying in Schools, Access Copyright Says

Toronto – July 12, 2012 – Access Copyright notes with interest and concern the Supreme Court of Canada’s decision announced today in favour of the Council of Ministers of Education in the appeal of Access Copyright’s Elementary and Secondary Schools Tariff. This very close decision (5:4) will have a limited impact on the importance of the Access Copyright licence to the education community, according to a preliminary analysis by the copyright licensing collective.

"The fact is the Supreme Court was only looking at about seven percent of the copying done in schools," Maureen Cavan, Executive Director, Access Copyright, said in a statement emailed to media and posted on its website. "The decision absolutely does not mean a free-for-all on copyright-protected materials used in the classroom. On the contrary, it leaves copyright licensing in the education sector alive and well," she said.

The primary, secondary and post-secondary education sector copies the equivalent of three million books a year. The question before the Supreme Court dealt with less than seven percent of copying that is done for private study and research in elementary and secondary schools, when the teacher gave instructions to read the material, leaving the vast majority of copying by K-12 schools unaffected by the decision.

In its decision the Supreme Court did not conclude that the copying at issue was "fair" under the terms of the *Copyright Act*. The Court said whether something is "fair" is a question of fact and a "matter of impression". It referred the case back to the Copyright Board for re-determination in light of the Court’s decision. The Copyright Board will decide whether the ruling changes its impression that the dealing was unfair.

Access Copyright will continue to study the implications of the decision for creators and publishers and will comment further in the days and weeks ahead.

Access Copyright, The Canadian Copyright Licensing Agency, is a not-for-profit organization founded by Canadian creators and publishers to meet the needs of users of copyright protected works, while ensuring fair compensation for that use. Access Copyright represents nearly 11,000 Canadian writers and over 600 publishers. Access Copyright works with organizations in all sectors to help them operate legally by providing access to licences that allow for the legitimate use of published copyright protected materials.

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