

## Radio/Television Programs

The attached Copyright Advisory for Educators provides specific details for copying and performance of radio/TV programs.

1. Copyright Law - Educational institutions can:
  - a) Tape news and news commentary programs and show them for up to one year without having to pay royalties. After that, royalties must be paid as set by the Copyright Board.
  - b) Tape other programs and keep them for assessment purposes for up to 30 days. If kept longer, or show the tape at any time, royalties must be paid as set by the Copyright Board.
  
2. Record-Keeping Regulations - Educational institutions must complete a record keeping form (attached Advisory schedule) every time a radio or television program is taped for classroom use, with one "72 hour exception". Failure to complete the required from infringes copyright and can result in costly penalties.
  
3. The 72-Hour Exception - Educational institutions are not required to complete a form for taping news or news commentary programs if the tape is used within 72 hours of its making. Record-keeping is still required if other programs are taped.
  
4. Completing the Records - Educational institutions must assign a reference number or code to every program copied as per the Advisory. Completed forms are to be sent to the Educational Rights Collective of Canada every four months (see Advisory).
  
5. The Tariff - The tariff is elective as educational institutions have three options:
  - a) Not to pay the tariff.  
By not copying radio and television programs and continuing to purchase pre-recorded programming from distributors, educational institutions do not need to pay the tariff.
  - b) To pay a comprehensive tariff.  
For copying radio and television programs under the comprehensive tariff, elementary and secondary educational institutions are required to pay \$1.73 per full-time student. Institutions may copy as many programs as they wish and use them as often as they wish in the year for which the royalty is paid.
  - c) To pay a transactional tariff.  
For copying a television program under the transactional tariff, elementary and secondary schools are required to pay \$1.60 per minute of the program copied. Radio programs will cost \$0.13 per minute.
  
6. TVOntario/Cable in the Classroom - Education institutions should note that TVOntario and Cable in the Classroom offer programming free of charge for classroom use and therefore the above copyright regulations do not apply to these programs.

7. Distinguishing Between News, News Commentary Programs and Documentaries - No royalty is payable for taping a single copy of a news program or news commentary program provided that the copy is destroyed within a year of the making of such copy. This royalty exception does not apply to documentaries. Please refer below to guidelines of the Advisory to distinguish between news program, news commentary and a documentary.

#### Guidelines for Distinguishing between News, News Commentary Programs and Documentaries

No royalty is payable for taping a single copy of a news program or news commentary program provided that the copy is destroyed within one year after the making of such copy. This royalty exception does not apply to documentaries.

To determine whether a royalty is payable, educators may refer to the following guidelines, which are intended to assist in distinguishing between the three categories of program. These guidelines were developed in cooperation with ERCC and representatives of elementary, secondary, and postsecondary educational institutions.

1. A news program is a program reporting on local, regional, national and international events as they happen, and includes weather reports, sportscasts, community news, and other related features or segments contained within the news program. Examples are: *The National, Ontario Ce Soir, BBC World Report*.
2. A news commentary program is a program containing discussions, explanations, analysis, observations or interpretations of the news and having a preponderance of the following elements: "talking head(s)"; minimal editing; minimal "shelf life" in its original form; and, if in interview or panel discussion format, unscripted responses. Examples are: *As It Happens, Studio 2, The Editors, Larry King Live*.
3. A documentary is a socially relevant program with a creative vision and/or viewpoint and with a preponderance of the following elements: significant research and preparation; pre-scripting; significant editing; and significant "shelf life". Examples are: *Life & Times, The Nature of Things, Rex Murphy, Les affaires et la vie, D'un soleil à l'autre*.

Special attention is needed in classifying so-called "news magazine" programs, such as *48 Hours* and *20/20*, which can be either news commentary programs or documentaries. The above guidelines are intended to assist educators in distinguishing between the two categories.

# COPYRIGHT ADVISORY FOR EDUCATORS

## Copying and showing radio and television programs

**Note:** Copyright tariffs for Radio and Television Programs taped by individuals are the responsibility of the Principal or individual users.

This document is composed of:

Part I: Copyright Law

Part II: Record-keeping Regulations

Part III: Tariffs

Appendix A (Guidelines)

Schedule (Record-keeping form)

### **PART I**

#### **Copyright Law**

Prior to January 1, 1999, any copies of radio and television programs taped without the copyright owners' authorization were illegal.

On January 1, 1999, two educational exceptions in the *Copyright Act* came into force. Since then, educational institutions and persons acting under their authority can, without the copyright owners' authorization, tape radio and television programs at the time they are broadcast and show those tapes in the classroom. Educational institutions can:

1. **Tape news and news commentary programs\*** and show them for up to one year without having to pay royalties. After that, they must pay royalties in an amount set by the Copyright Board.
2. Tape other programs and keep them for assessment purposes for up to 30 days. If they keep the tape any longer, or if they show the tape at any time, they must pay royalties in an amount set by the Copyright Board.

\*Appendix A provides guidelines for distinguishing between **news programs**, **news commentary programs**, and other programs such as **documentaries**.

### **PART II**

#### **Record-keeping regulations**

Since August 31, 2001, federal regulations require that educational institutions complete a record-keeping form (see attached Schedule) every time a radio or television program is taped for classroom use, with one "72-hour exception." An institution that does not complete the required form infringes copyright. Infringement triggers a number of well-established – and costly – penalties.

#### **The 72-hour exception**

An educational institution is not required to complete a form for taping news and news commentary programs if the tape is erased within 72 hours of its making. Record-keeping is still required if other programs are taped.

### **How to mark the copy**

An educational institution must assign a reference number or code to every program copied, which must be written on the tape itself or on the container. The number or code will allow auditors from the collective, the Educational Rights Collective of Canada (ERCC), to compare tapes in school collections against the forms reporting copying that the school has sent to the collective.

### **Where to send the forms**

Completed forms must be sent to ERCC. The collective was formed by the owners of the copyright in radio and television programs to collect royalties for the taping of radio and television programs for classroom use.

ERCC's address is:

Educational Rights Collective of Canada  
P.O. Box 658  
31 Adelaide Street East  
Toronto, Ontario M5C 2J8  
Fax: (416)368-8324  
E-mail: [info@ercc.ca](mailto:info@ercc.ca)

### **When to send the forms**

The following dates should be noted:

1. December 31, 2002, copies of all forms completed to date must be sent to ERCC.
2. After November 25, 2002, copies of all completed forms must be sent to ERCC every four months. The regulations specify that on or before January 31, May 31 and September 30 of each year, an educational institution must send a completed form for every tape made during the preceding four-month period.

When forms are sent, unless the information below has already been provided to ERCC and remains the same, the following must also be submitted:

1. the name, address, telephone number, facsimile number and e-mail contact information for the person whom the educational institution has designated as its contact for the purposes for all communications with ERCC;
2. the number of preschool, elementary, or secondary full-time equivalent (FTE) students;
3. the number of postsecondary FTE students.

### **How long to keep the forms**

After a copy of a taped program is erased or destroyed, an educational institution must keep the original record-keeping form for two years, or it can send the original to ERCC.

### **How to obtain a copy of the federal regulations**

The *Educational Program, Work and Other Subject-matter Record-keeping Regulations* are available on the Copyright Board Web site:

<http://www.cb-cda.gc.ca/info/regulations/index-e.html>

CMEC Copyright Consortium  
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