

Copyright Board of Canada

2010-11

Departmental Performance Report

Christian Paradis
Minister of Industry and Minister of State (Agriculture)

Table of Contents

Minister's Message	1
Section I: Organizational Overview	2
Raison d'être.....	2
Responsibilities.....	3
Strategic Outcome(s) and Program Activity Architecture (PAA).....	4
Organizational Priorities.....	5
Risk Analysis.....	9
Summary of Performance.....	11
Expenditure Profile.....	12
Estimates by Vote.....	13
Section II: Analysis of Program Activities by Strategic Outcome	14
Strategic Outcome: Fair decision-making to provide proper incentives for the creation and use of copyrighted works.....	14
Program Activity: Copyright Tariff Setting and Issuance of Licences	14
Performance Summary and Analysis of Program Activity	15
Lessons Learned	17
Program Activity: Internal Services	17
Performance Summary and Analysis of Program Activity	18
Section III: Supplementary Information	19
Financial Highlights	19
Financial Highlights Graphs.....	20
Financial Statements.....	21
Section IV: Other Items of Interest	22
Organizational Information	22

Minister's Message

Last year, Industry Canada and its Portfolio partners played a key role in advancing the government's agenda in Year 2 of Canada's Economic Action Plan.

Specific Economic Action Plan stimulus measures taken by the Industry Portfolio were aimed at boosting economic development, supporting small and medium sized enterprises, improving Canada's research and development capacity, and supporting communities. The Portfolio's stimulus measures supported communities through the Marquee Tourism Events Program and Broadband Canada. Further investments in the Industrial Research and Assistance Program, the Industrial Research and Development Internship, the Canada Graduate Scholarships, and the Knowledge Infrastructure Program expanded Canada's research and development capacity.

Investing in the Canadian Space Industry Initiative maintained Canadian expertise and leadership in space robotics. Through these and other stimulus initiatives, we helped create jobs, build communities and ensure the roots of economic recovery were nurtured.

The Copyright Board of Canada held hearings, issued decisions, certified tariffs and delivered licences dealing with the public performance and reproduction of musical works and of sound recordings, the reproduction of literary works and private copying. These activities contributed to the realisation of the Copyright Board's strategic outcome of ensuring fair decision-making to provide proper incentives for the creation and use of copyrighted works.

Cultivating an environment for job creation, growth and competitiveness – both domestically and internationally – remains a priority for Industry Canada. We will work to improve cost-effectiveness and efficiency, contributing to the Government of Canada's priority to balance the budget and achieve real results for all Canadians.

It is my pleasure to present the Copyright Board's Departmental Performance Report for 2010-11.

Christian Paradis
Minister of Industry and Minister of State (Agriculture)



Section I: Organizational Overview

Raison d'être

The Copyright Board of Canada's program objective is to set royalties which are fair and equitable to both copyright owners and users of copyright-protected works. This includes setting fair and equitable terms and conditions so as to permit the use of works when the owner of the copyright cannot be located.

The Board is an independent administrative agency that has been conferred department status for purposes of the *Financial Administration Act*. The mandate of the Board is set out in the *Copyright Act* (the "Act"). The Board is empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works when the administration of such works is entrusted to a collective administrative society.

The Copyright Board of Canada is an economic regulator. It deals with complex social, cultural, demographic, economic and technological issues (e.g., communications technology, use of content over the Internet, streaming of video and audio files and software management systems to protect music or administer rights). The Board's decisions are not appealable, but can be the subject of judicial review by the Federal Court of Appeal. The Board has existed in one form or another since the 1930s, but its jurisdiction was significantly expanded in 1989 and 1997.

The program objective of the Board underlies the achievement of strategic outcomes related to innovation through new knowledge, which has become the main source of competitive advantage in all sectors of economic activity and is closely associated with increased exports, productivity growth, and the creation of new firms.

In this context, our country's handling of intellectual property matters is a critical element in our long-term success in innovation, and by extension, to our long-term economic health. The terms and conditions by which intellectual property owners (such as owners of copyrighted works) are compensated will largely define the incentive structure for innovation in and creation of copyrighted materials. In addition, the design and implementation of regulations can have a significant impact on innovation and competitiveness, particularly in the areas of intellectual property rights.

Responsibilities

Mandate of the Board
<p>The Board is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a collective-administration society. The Board also has the right to supervise agreements between users and collective societies and issues licences when the copyright owner cannot be located.</p>

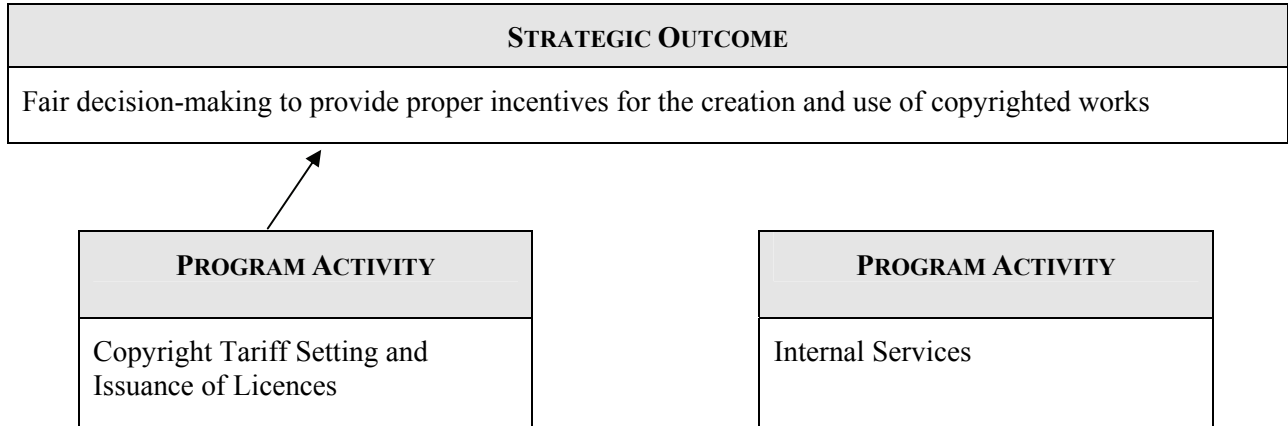
The Copyright Board of Canada was established on February 1, 1989, as the successor of the Copyright Appeal Board. Its responsibilities under the *Act* are to:

- certify tariffs for the public performance or the communication to the public by telecommunication of musical works and sound recordings [sections 67 to 69];
- certify tariffs, at the option of a collective society referred to in section 70.1, for the doing of any protected act mentioned in sections 3, 15, 18 and 21 of the *Act* [sections 70.1 to 70.191];
- set royalties payable by a user to a collective society, when there is disagreement on the royalties or on the related terms and conditions [sections 70.2 to 70.4];
- certify tariffs for the retransmission of distant television and radio signals or the reproduction and public performance by educational institutions, of radio or television news or news commentary programs and all other programs, for educational or training purposes [sections 71 to 76];
- set levies for the private copying of recorded musical works [sections 79 to 88];
- rule on applications for non-exclusive licences to use published works, fixed performances, published sound recordings and fixed communication signals, when the copyright owner cannot be located [section 77];
- examine, at the request of the Commissioner of Competition appointed under the *Competition Act*, agreements made between a collective society and a user which have been filed with the Board, where the Commissioner considers that the agreement is contrary to the public interest [sections 70.5 and 70.6];
- set compensation, under certain circumstances, for formerly unprotected acts in countries that later join the Berne Convention, the Universal Convention or the Agreement establishing the World Trade Organization [section 78].

In addition, the Minister of Industry can direct the Board to conduct studies with respect to the exercise of its powers [section 66.8].

Finally, any party to a licence agreement with a collective society can file the agreement with the Board within 15 days of its conclusion, thereby avoiding certain provisions of the *Competition Act* [section 70.5].

Strategic Outcome(s) and Program Activity Architecture (PAA)



Organizational Priorities

Performance/Priority Status Legend

Exceeded: More than 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding Report on Plans and Priorities (RPP) was achieved during the fiscal year.

Met all: 100 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Mostly met: 80 to 99 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and expected outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Somewhat met: 60 to 79 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Not met: Less than 60 per cent of the expected level of performance (as evidenced by the indicator and target or planned activities and outputs) for the expected result or priority identified in the corresponding RPP was achieved during the fiscal year.

Priority	Type	Strategic Outcome(s) and/or Program Activity(ies)
Ensure timely and fair processes and decisions	Ongoing	Fair decision-making to provide proper incentives for the creation and use of copyrighted works.
Status: Met all		

Priority	Type	Strategic Outcome(s) and/or Program Activity(ies)
Advance the analytical framework for decisions and the regulatory processes for tariff-setting	Ongoing	Fair decision-making to provide proper incentives for the creation and use of copyrighted works.
Status: Met all		

Note: "Type" is categorized as follows: **Previously committed to** - committed to in the first or second fiscal year before the subject year of the report; **Ongoing** - committed to at least three fiscal years before the subject year of the report; and **New** - newly committed to in the reporting year of the Departmental Performance Report.

Priority	Type	Strategic Outcome(s) and/or Program Activity(ies)
Improve management practices	Ongoing	Fair decision-making to provide proper incentives for the creation and use of copyrighted works.
Status: Met all		

1. Ensure timely and fair processes and decisions

In 2010-11, the Board took several steps which resulted in a reduction of the regulatory burden. For instance, when appropriate, the Board combined hearings processes which have resulted in some cost savings for the participants. Such was the case for two of Re:Sound's tariffs, namely its proposed Tariff 8.A applying to Internet simulcasting and webcasting and Tariff 8.B applying to Internet semi-interactive webcasting. In addition, the Board also initiated a hearing process in writing for another of Re:Sound's tariffs, Tariff 5 for the use of music to accompany live events for the years 2008 to 2012. This contributed to reduce costs for the parties.

The Board intended to implement a working group comprised of key stakeholders to examine possible avenues to improve its rules of practices and procedures. Due to a larger workload that expected however, the Board was not able to implement this working group. The project has now been put on hold.

The Board's priority of timely and fair decision-making was also achieved by engaging in pre-hearing consultations, information gathering and web site postings. These procedures assisted in conducting well-organized proceedings which address key issues facing copyright-related industries.

The Board receives tariff applications from collective societies on or before March 31 of a given year in which a tariff is scheduled to terminate. The Board has some latitude in the scheduling of hearings and tries to initiate the procedure leading to a hearing as efficiently as possible. The Board posts its upcoming hearing schedule on its website (www.cb-cda.gc.ca). There are no statutory deadlines for the release of the Board's decisions. However, the Board endeavours to deal with all applications as expeditiously as possible, while keeping the interests and constraints of the parties in mind.

Starting with this Performance Report, the Board will report on two indicators that focus on measuring delays before decisions are published and licences delivered.

Delays in providing written decisions to Canadian copyright industry stakeholders can cause uncertainty, thus impacting on the Board's capacity to provide incentives for the creation and use of copyrighted works. Therefore, the Board gathered data on the number of months between the date when a particular tariff file is complete, and the date when the tariff is certified. In the Report of Plans and Priorities (RPP) for 2010-11, a target of 12 months was set, with a

complying percentage of 70 per cent. The Board believes that a 12-month target is reasonable given the resources it has and the complexity of the decisions it needs to render.

Five decisions were rendered by the Board during fiscal year 2010-11. The first decision was rendered some 18 months after the hearing was concluded. This long delay is explained by the fact that the Tariff was in respect of many different rights used by commercial radio stations, adding to the complexity of the file. The second decision in respect of Access Copyright Interim Tariff was issued five months after the file was completed. For Private Copying for 2010 and for 2011, the decisions were issued two months and one month respectively, after completion of the files. The last decision, pertaining to a licence application by the *Ministère de l'éducation, du loisir et du sport Québec* for the use of the soundtrack of a video recording of a speech delivered by Severn Cullis-Suzuki, was rendered three months after completion of the file. Hence, we met our entire target as 80 per cent of the decisions were issued within the 12-month target. For 2010-11, the Board's decisions were issued on average 5.8 months after file completion.

In addition, pursuant to section 77 of the *Act*, the Board may grant licences that authorize the use of a published work, a fixation of a performer's performance, a published sound recording, or a fixation of a communication signal if the copyright owner cannot be located. The Board's objective with respect to this activity is to issue licences in a timely manner. Therefore, we also gathered data on the number of months between the date when a particular licence file is complete, and the date of issuance of the licence. In the RPP for 2010-11, a target of 45 days was set between the file completion date and the issuance of the licence, to be met in at least 70 per cent of the files. The publicly stated target of 45 days was set taking into account the Board's resources.

Eight licences were delivered during fiscal year 2010-11. Of those, seven were issued well within our target of 45 days, and one took 63 days. Our target was thus successfully met.

Greater participant satisfaction is closely linked to the timeliness and orderly conduct of formal proceedings. The Board continued to structure and sequence witnesses and hearing stages so as to eliminate duplication and maximize time spent on relevant issues.

Because the Board hearings involve adversarial parties, some of whom will likely experience direct economic gain or loss in association with an offsetting gain or loss to another party, the Board's decisions cannot be expected to be satisfactory to all parties at all times. However, the Board attempts to bring unbiased and rigorous reasoning to its decision-making. The Board also recognizes the need to provide clear and sufficiently detailed explanations in its decisions so as to assist parties in preparing for the next round of tariff-setting.

In addition, the Board continued to examine alternatives to current procedures based upon input from hearing participants as part of a plan to develop and implement a more active involvement in pre-hearing information gathering aimed at reducing time and cost to participants while safeguarding the fairness of procedures.

Starting with the Departmental Performance Report for 2011-12, the Board intends to also report on the level of satisfaction of participants, in particular with respect to the services provided

either as part of a formal hearing process leading to the certification of a tariff or in an informal process leading to the issuance of a licence. The Board had planned to start reporting on this indicator for the fiscal year 2010-11. However, because of a heavy workload associated with the current large number of pending decisions, the implementation of the survey to measure the level of satisfaction of participants had to be delayed. Work is being planned to ensure that this will be reported on in the next performance report.

2. Advance the analytical framework for decisions and the regulatory processes for tariff-setting

As a key tool in addressing the challenges of changing technology and the impact of global events, the Board is encouraging the active participation of its staff and members in international initiatives, events and conferences. By discussing and comparing experiences across different countries, the Board can gain early warning of significant developments and their likely impacts on the Canadian situation.

Among the international fora of copyright specialists which the Board Members and staff attended in 2010-11, the following are noteworthy: the Eighteenth Annual Conference of the Fordham Intellectual Property Law Institute (New York, April 2010); the Annual Conference of the *Association littéraire et artistique internationale* (ALAI) (Vienna, June 2010); the Annual Congress of the Society for Economic Research on Copyright Issues (SERCI) (Cartagena, July 2010); the WIPO Global Meeting on Emerging Copyright Licensing Modalities (Geneva, November 2010); and, the Future of Music Coalition Summit (Washington, October 2010). The Board was also represented at numerous similar national meetings in Canada. The rationale for the Board's "screening" activities is to identify and assess industry trends before they undermine existing copyright regimes.

As part of its effort to increase leadership on copyright matters, the staff of the Board was able to work on, complete or publish a number of studies with respect to important legal and economic copyright issues.

3. Improve management practices

The Board has updated its Human Resources Plan as this is an evolving document that needs to be reviewed to take into account changing priorities. The Board has also continued to work on the implementation of its Performance Measurement Framework, which will be done for 2011-12.

The Board continued to develop and implement key IM/IT initiatives in support of business development and enhancement activities.

The Board continued to progress on all public service renewal commitments that respond to challenges related to planning, engagement, recruitment, building capacity, and providing supportive human resource management architecture. Accomplishments include a more integrated, inclusive and horizontal approach to planning.

Risk Analysis

Operating Environment

The mandate of the Copyright Board of Canada is set out in the *Act* as amended in 1997. The Board has powers of a substantive and procedural nature. Some powers are granted to the Board expressly in the *Act*, and some are implicitly recognized by the courts.

The *Act* requires that the Board certify tariffs in the following fields: the public performance or communication of musical works and of sound recordings of musical works, the retransmission of distant television and radio signals, the reproduction of television and radio programs by educational institutions and private copying. In other fields where rights are administered collectively, the Board can be asked by a collective society to set a tariff; if not, the Board can act as an arbitrator if the collective society and a user cannot agree on the terms and conditions of a licence.

The examination process is always the same. The collective society must file a statement of proposed royalties which the Board publishes in the *Canada Gazette*. Tariffs always come into effect on January 1. On or before the preceding 31st of March, the collective society must file a proposed statement of royalties. The users targeted by the proposal (or in the case of private copying, any interested person) or their representatives may object to the statement within sixty days of its publication. The collective society in question and the opponents will then have the opportunity to argue their case in a hearing before the Board. After deliberations, the Board certifies the tariff, publishes it in the *Canada Gazette*, and explains the reasons for its decision in writing.

As a rule, the Board holds hearings. No hearing will be held if proceeding in writing accommodates a small user that would otherwise incur large costs. The hearing may be dispensed with on certain preliminary or interim issues. No hearings have been held yet for a request to use a work whose owner cannot be located. The process has been kept simple. Information is obtained either in writing or through telephone calls.

Risk Evaluation

The Board's decisions and licences set fair and equitable rates and conditions for the use of copyright protected works. Overall, the Board is responsible for tariffs that are estimated to be worth over \$400 million annually. In fact, copyright tariffs support several industries which, according to a Conference Board of Canada study (*Valuing Culture, Measuring and Understanding Canada's Creative Economy*, Conference Board of Canada, August 2008), generated in 2007 an amount representing 7.4 per cent of Canada's GDP when taking into account the direct, indirect and induced contribution. They also contributed 1.1 million jobs to the economy.

Because the stakes are considerable both for copyright holders and for users of copyright, interventions before the Board are thorough, sophisticated and often involving expert witnesses,

litigation specialists and detailed econometric, business and financial studies, surveys and evidence. The Board must be able to correctly assess the ever-changing technological environment (such as the Internet, digital radio, satellite communications), the global events, the new business models and the interests of owners and users in order to contribute, with fair and equitable decisions, to the continued growth of Canada's knowledge industries.

Decisions and tariffs issued by the Board must also take into account the specific environment in which it will be applied. A tariff's structure and terms and conditions need to be set in accordance with the industry's technology, business models and economic environment. Sound tariff decisions avoid serious disruption in affected sectors of the national economy and costly and time-consuming court challenges. They also more generally impact positively on the growth of the sectors involved, and hence on the overall economy.

Among the most significant risks which the Board faces in achieving its strategic outcomes is the potentially disruptive impact of new technologies (i.e., in terms of how copyright material is utilized, distributed and monitored). The Board's approach to managing the technology risk is to systematically monitor relevant journals, other publications and web sites, and to attend industry seminars and conferences, as described before in this report.

The decisions the Board makes are constrained in several respects. These constraints come from sources external to the Board: the law, regulations and judicial pronouncements. Others are self-imposed, in the form of guiding principles that can be found in the Board's decisions.

Court decisions also provide a large part of the framework within which the Board operates. Most decisions focus on issues of procedure, or apply the general principles of administrative decision-making to the specific circumstances of the Board. However, the courts have also set out several substantive principles for the Board to follow or that determine the ambit of the Board's mandate or discretion.

The Board also enjoys a fair amount of discretion, especially in areas of fact or policy. In making decisions, the Board itself has used various principles or concepts. Strictly speaking, these principles are not binding on the Board. They can be challenged by anyone at anytime. Indeed, the Board would illegally fetter its discretion if it considered itself bound by its previous decisions. However, these principles do offer guidance to both the Board and those who appear before it. In fact, they are essential to ensuring a desirable amount of consistency in decision-making.

Among those factors, the following seem to be the most prevalent: the coherence between the various elements of the public performance of music tariffs, the practicality aspects, the ease of administration to avoid tariff structures that make it difficult to administer the tariff in a given market, the search for non-discriminatory practices, the relative use of protected works, the taking into account of Canadian circumstances, the stability in the setting of tariffs that minimizes disruption to users, as well as the comparisons with "proxy" markets and comparisons with similar prices in foreign markets.

Summary of Performance

2010-11 Financial Resources (\$ thousands)

Planned Spending	Total Authorities	Actual Spending
3,236	3,236	2,566

2010-11 Human Resources (full-time equivalents - FTEs)

Planned	Actual	Difference
16	13	3

Strategic Outcome: Fair decision-making to provide proper incentives for the creation and use of copyrighted works

Performance Indicators	Targets	2010-11 Performance
Time to render decisions	One year, for at least 70% of the cases	Met all
Time to deliver licences	45 days, for at least 70% of the cases	Met all

Program Activity	2009-10 Actual Spending (\$ thousands)	2010-11 (\$ thousands)				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Copyright Tariff Setting and Issuance of Licences	2,212	2,519	2,621	2,621	2,078	An innovative and knowledge-based economy
Internal Services	519	591	615	615	488	
Total	2,731	3,110	3,236	3,236	2,566	

Note 1: In its 2010-11 Report on Plans and Priorities, the Board had planned expenditures of \$3,110,457. It received a further amount of \$125,230 that increased its planned expenditures. This amount includes five percent of the previous year's budget that the Board is allowed to carry forward as well as compensation for collective bargaining agreements.

Note 2: Commencing in the 2009-10 Estimates cycle, the resources for Program Activity: Internal Service are displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by program activity between fiscal years.

In 2010-11, the Board held four hearings. In April and May 2010, the Board considered an inaugural tariff by Re:Sound Music Licensing Company (Re:Sound, formerly NRCC) for the use of recorded music to accompany dance and fitness activities (Tariff 6). In June 2010, the Board heard two applications for arbitration, namely the Society for Reproduction Rights of Authors, Composers and Publishers in Canada (SODRAC) v. CBC and SODRAC v. Groupe Astral, merged into a single process. Immediately thereafter, the Board examined SODRAC's tariff for the reproduction of musical works embedded in cinematographic works (Tariff 5). This tariff process was also partially merged with the two applications for arbitration. Finally, in June 2010, the Board conducted a joint examination of the Society of Composers, Authors and Music Publishers of Canada's (SOCAN) and CMRRA/SODRAC Inc.'s (CSI) tariffs for online music services.

The Board issued five decisions during the fiscal year. One of these dealt with the public performance of musical works and sound recordings as well as the reproduction of musical works, sound recordings and performers' performances by commercial radio stations. A total of five tariffs were certified covering SOCAN, Re:Sound, CSI, AVLA Audio-Video Licensing Agency (AVLA) and the *Société de gestion collective des droits des producteurs de phonogrammes et de vidéogrammes du Québec* (SOPROQ) (jointly AVLA/SOPROQ) and ArtistI for various years spanning the period 2008 through 2012. This was the first time that such a large number of collectives were heard jointly on tariffs that relates to the use of music by commercial radio stations.

The Board also set an interim Access Copyright tariff for the reprographic reproduction by post-secondary educational institutions for the years 2011-13. In addition, it dealt with two private copying decisions, certifying the private copying tariff for 2010 and for 2011. Finally, the Board issued a decision denying an application by the *Ministère de l'Éducation, du Loisir et du Sport Québec* (MELS) for the use of the soundtrack of a video recording of a speech delivered by Severn Cullis-Suzuki. All of these decisions are described in greater detail in the Board's Annual Report for 2010-11.

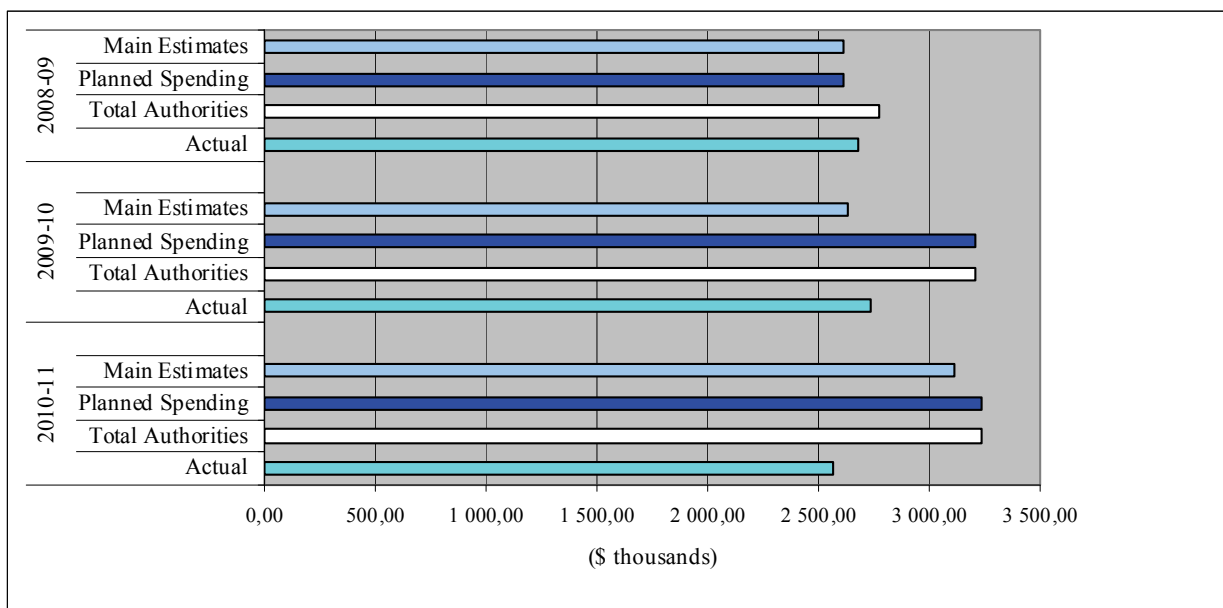
In the last fiscal year, eight licences were also issued under the provisions of the *Copyright Act* which permit the use of published works for which the copyright owners cannot be located.

Expenditure Profile

The Board's actual spending for 2010-11 was \$2.57 million, a decrease from the \$2.73 million spent in the fiscal year 2009-10.

The chart below shows differences between Planned Spending, Total Authorities and Actual Spending for the unique program activity. Although planned expenditures for 2010-11 were at \$3.24 million, actual spending was only \$2.57 million. This is due to the fact that some positions are still vacant and from savings achieved through cost containment measures.

Table: Departmental Spending Trend
(\$ millions)



Estimates by Vote

For information on our organizational Votes and/or statutory expenditures, please see the 2010-11 Public Accounts of Canada (Volume II) publication. An electronic version of the Public Accounts is available on the Public Works and Government Services Canada website at the following address: <http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html>.

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome: Fair decision-making to provide proper incentives for the creation and use of copyrighted works

The Board's strategic outcome is to ensure fair decision-making to provide proper incentives for the creation and uses of copyrighted works. The achievement of this outcome relates to innovation, which is a main source of competitive advantage in all areas of economic endeavour.

The use and re-use of cultural and entertainment content (such as musical and audio-visual works) have become widespread with the advent of new media and online services, new playback and editing technologies and new uses in conventional media. These matters manifest themselves in some of society's most complex and contentious issues, including the downloading of content over the Internet using file-sharing software and the proliferation of duplication technologies which have the capability to make digital copies of CDs and DVDs. At the same time, new opportunities for streaming video and audio files, whether interactively, semi-interactively, or passively have emerged. Personal video recorders and other similar devices used in conjunction with television sets have begun to blur lines between the broadcasting sector and the entertainment rental/purchase sector. Personal audio players have the capacity to store entire libraries of music, literally thousands of songs. It is in this environment that the Board must operate to achieve its strategic outcome.

The Copyright Board of Canada recognizes the need to ensure an effective and efficient copyright regulatory regime in order to attain the maximum productivity in those sectors that create and use copyrighted works. Further, the performance of the Copyright Board will promote a fair and competitive marketplace as well as reasonable opportunities for Canadian firms to export copyright protected goods and services in the music, for content creation and programming areas, as well as for the downstream broadcasting, publishing and entertainment industries.

Program Activity: Copyright Tariff Setting and Issuance of Licences

The Board is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a collective-administration society. The Board also has the right to supervise agreements between users and collective societies and issues licences when the copyright owner cannot be located.

2010-11 Financial Resources (\$ thousands)

Planned Spending	Total Authorities	Actual Spending
2,621	2,621	2,078

2010-11 Human Resources (FTEs)

Planned	Actual	Difference
14	11	3

Expected Results	Performance Indicators	Targets	Performance Status
N/A	N/A	N/A	N/A

Note: The Board being a micro organization, it has one strategic outcome with a single corresponding program activity, along with internal services. The performance indicators described below at the level of the strategic outcome thus equally apply to the program activity.

Performance Summary and Analysis of Program Activity

In 2010-11, the Board held four hearings and issued five decisions. What follows is a brief summary of these activities listed according to the legal regime that applies to each category. For further detail, please refer to the Board's 2010-11 Annual Report which can be found at www.cb-cda.gc.ca.

1. Public Performance of Music

During the fiscal year, the Board held two hearings as follows:

- In April and May 2010, the Board considered an inaugural tariff by Re:Sound for the use of recorded music to accompany dance and fitness activities (Tariff 6). This tariff is to set the royalties to be paid by fitness centres and dance venues for their use of recorded music.
- In June 2010, the Board conducted a joint examination of SOCAN's tariff for the communication to the public by telecommunication of musical works and of CSI's tariff for the reproduction for musical works, both in respect of online music services.

On July 9, 2010, the Board issued a decision dealing with the public performance as well as the reproduction of musical works, sound recordings and performers' performances by commercial radio stations. A total of five tariffs were certified covering SOCAN, Re:Sound, CSI, AVLA/SOPROQ and ArtistI for various years spanning the period 2008 through 2012. This was the first time that such a large number of collectives were heard jointly on tariffs that relate to the use of music by commercial radio stations.

2. Private Copying

The Board issued two decisions, as follows:

- On November 2, 2010, for the year 2010, setting a tariff of levies to be collected by the Canadian Private Copying Collective (CPCC) on the sale of blank audio recording media, in Canada, in respect of the reproduction for private use of musical works embodied in sound recordings, of performers' performances of such works or of sound recordings in which such works and performances are embodied.
- On December 17, 2010, setting a new tariff for the year 2011.

3. Collective Administration (General Regime)

During fiscal year 2010-11, the Board held the following hearing, which also dealt with two applications for arbitration:

- Immediately after hearing in June 2010 two applications for arbitration, namely SODRAC v. CBC and SODRAC v. Groupe Astral, merged into a single process, the Board examined SODRAC's tariff for the reproduction of musical works embedded in cinematographic works (Tariff 5). This tariff process was also partially merged with the two applications for arbitration.

On March 16, 2011, the Board issued the decision setting an interim tariff to be collected by Access Copyright, The Canadian Copyright Licensing Agency (Access Copyright) for the reprographic reproduction by post-secondary educational institutions for the years 2011-2013.

4. Applications for Arbitration

In June 2010, the Board heard two applications for arbitration, namely SODRAC v. CBC and SODRAC v. Groupe Astral, merged into a single process. SODRAC's Tariff 5 for the reproduction of musical works embedded in cinematographic works was also partially merged with the two applications for arbitration.

5. Unlocatable Copyright Owners

In 2010-11, 30 applications were filed with the Board for the use of published works for which rights holders could not be found and eight non-exclusive licences were issued for the use of such works.

On April 23, 2010, the Board issued a decision denying an application by the *Ministère de l'Éducation, du Loisir et du Sport Québec* (MELS) for the use of the soundtrack of a video recording of a speech delivered by Severn Cullis-Suzuki.

6. Agreements Filed with the Board

In 2010-11, 380 agreements were filed with the Board pursuant to section 70.5 of the *Act*.

Access Copyright which licenses reproduction rights such as digitization and photocopy, on behalf of writers, publishers and other creators, filed 298 agreements granting educational

institutions, language schools, non-profit associations, copy shops and others a licence to photocopy works in its repertoire.

The *Société québécoise de gestion collective des droits de reproduction* (COPIBEC) filed 79 agreements. COPIBEC is the collective society which authorizes in Quebec the reproduction of works from Quebec, Canadian (through a bilateral agreement with Access Copyright) and foreign rights holders. The agreements filed in 2010-11 were concluded with various educational institutions, municipalities, non-profit associations and other users.

Finally, the Canadian Broadcasters Rights Agency (CBRA) filed three agreements it entered into with the Provinces of Alberta, British Columbia and Ontario. CBRA represents various Canadian private broadcasters who create and own radio and television news and current affairs programs and communication signals.

Lessons Learned

The Board has been facing increasing workload pressures leading to unnecessary delays in issuing decisions and creating a backlog in the certification of uncontested tariffs. The Board recognized the need for stability to overcome the challenges it was facing. The first step taken by the Board was to establish its succession plans, which are crucial for the orderly continuation of the Board's activities.

The second step was to more directly deal with the delays and the backlog. In that respect, the Board is still in the process of hiring additional staff that would be able to address the backlog. Because the Board is a micro organization however, this process is being challenged by the departure or retirement of key persons at the Board.

Program Activity: Internal Services

Internal services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Materiel Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services include only those activities and resources that apply across an organization and not to those provided specifically to a program.

2010-11 Financial Resources (\$ thousands)

Planned Spending	Total Authorities	Actual Spending
615	615	488

2010-11 Human Resources (FTEs)

Planned	Actual	Difference
2	2	0

Expected Results	Performance Indicators	Targets	Performance Status
N/A	N/A	N/A	N/A

Performance Summary and Analysis of Program Activity

This activity deals with financial and materiel management policies, systems, processes and standards. In implementing these policies, compliance with Parliament's requirements for financial stewardship and probity is ensured. This activity also encompasses the responsibility of providing human resource services.

The Board receives timely support from the services mentioned above.

Section III: Supplementary Information

Financial Highlights

(in dollars)

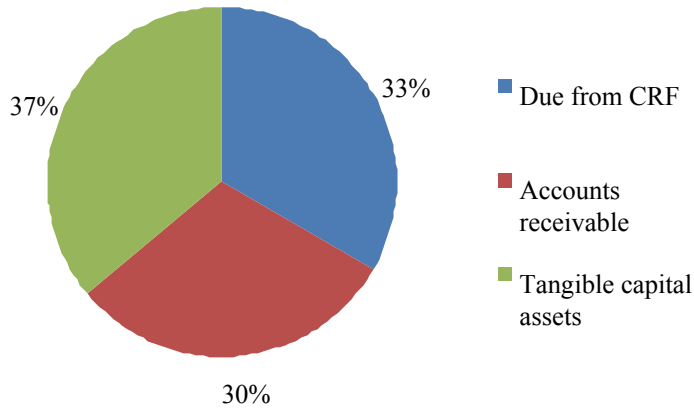
Condensed Statement of Financial Position		% Change	2011	2010
At end of Fiscal Year (March 31, 2011)				
ASSETS				
Total Assets	-59.0%	116,198	283,729	
TOTAL	-59.0%	116,198	283,729	
LIABILITIES				
Total Liabilities	-13.7%	478,553	554,375	
EQUITY				
Total Equity	-33.8%	(362,355)	(270,646)	
TOTAL	-59.0%	116,198	283,729	

(in dollars)

Condensed Statement of Financial Position		% Change	2011	2010
At end of Fiscal Year (March 31, 2011)				
EXPENSES				
Total Expenses	0.2%	3,003,938	2,997,863	
REVENUES				
Total Revenues	-	-	414	
NET COST OF OPERATIONS	0.2%	3,003,938	2,977,449	

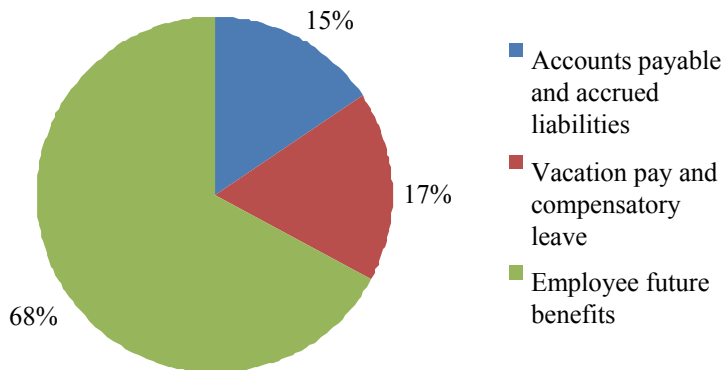
Financial Highlights Graphs

Assets by Type



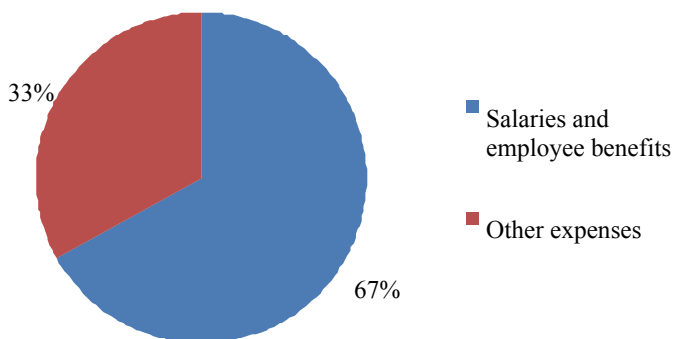
Total assets are valued at about \$116,000 in fiscal year 2010-11. This is composed of tangible capital assets (37% or \$42,000), due from CRF (33% or \$39,000) and accounts receivable (30% or \$35,000).

Liabilities by Type



Total liabilities are valued at about \$478,000 for fiscal year 2010-11. This is mostly made up of employee future benefits (68% or \$322,000), vacation pay and compensatory leave (17% or \$82,000) and accounts payable and accrued liabilities (15% or \$74,000).

Expenses by Type



For fiscal year 2010-11, total expenses are \$3 million. Most of these expenses are made up of salaries and employee benefits (67% or \$2 million), and operating expenses (33% or \$1 million). The majority of these latter expenses are required for the Board's policy role. The balance is made up of expenses associated with internal services.

Financial Statements

The Board's financial statements can be found on the Board's website at: www.cb-cda.gc.ca.

Section IV: Other Items of Interest

Organizational Information

Board Members

Board members are appointed by the Governor in Council to hold office during good behaviour for a term not exceeding five years. They may be reappointed once.

The *Act* requires that the Chairman must be a judge, either sitting or retired, of a superior, county or district court. The Chairman directs the work of the Board and apportions its caseload among the members.

The *Act* also designates the Vice-Chairman as Chief Executive Officer of the Board. He or she exercises direction over the Board and supervises its staff.

The organizational structure of the Board follows the requirements set out in section 66 and following sections of the *Act*.

Board's Staff

The Board has a staff of thirteen employees, organized around five operational groups:

1. The Registry group plans and manages all activities and resources related to public hearings and the issuing of licences for the use of works whose copyright owners cannot be located. This includes receiving, organizing and reviewing the documentary evidence and information, and organizing and maintaining the Board's records, archives and library.
2. The Research and Analysis group, which is responsible for the preparation and analysis of reports and research papers, the development of scenario analysis and recommendations and the provision of economic support to Board members and for decisions.
3. The Legal Analysis group, which provides legal analysis and advice on tariff and licence applications before the Board, and represents the Board before the Courts in matters involving its jurisdiction.
4. The Corporate Services group, which is responsible for financial and materiel management policies, systems, processes and standards which are consistent with modern comptrollership.
5. The Technical Support group, which provides support in particular in respect of informatics.