

YOU ARE AN ARTIST? YOU WOULD LIKE TO MAKE MORE MONEY WITH YOUR ART?

*Let COPYRIGHT VISUAL ARTS work for you.
Become a MEMBER today!*

WHO WE ARE WHAT WE DO HOW IT WORKS

About Copyright Visual Arts (CARCC)

In 2014-15 **COPYRIGHT VISUAL ARTS** restructured as a not for profit association which now operates under the business names **Copyright Visual Arts – Droits d’auteur Arts Visuels**. CARCC, was founded by CARFAC in 1990 to assist artists in administering their copyrights.

CARFAC and RAAV now play equal roles in its management because it is a logical extension of their commitment to the payment of royalties to artists for the use of their copyrights. CARFAC and RAAV provide their MEMBERS with information about **Copyright Visual Arts – Droits d’auteur Arts Visuels**, and they publish this Minimum copyright royalties schedule in order to promote full respect of artists’ copyrights in Canada and Quebec.

Copyright Visual Arts – Droits d’auteur Arts Visuels represents close to 1000 Canadian and Quebec visual and media artists. It negotiates and issues licenses that allow the legal use of its MEMBERS’ works, collects the royalties and pays the artists.

Being a MEMBER of Copyright Visual Arts is separate from MEMBERSHIP in CARFAC or RAAV. Any interested artist from Canada and Quebec may become a MEMBER or associate of Copyright Visual Arts.

Users of works created by MEMBERS of Copyright Visual Arts must obtain licenses from Copyright Visual Arts – Droits d’auteur Arts Visuels.

Governance BY and FOR Visual and Media Artists

Copyright Visual Arts (COPYRIGHT VISUAL ARTS) is directed by a Board of Directors composed of artists appointed in equal number by the two MEMBER associations, RAAV and CARFAC.

These artists have a duty to supervise the copyright society in the best interest of the artists it represents. Decisions are taken by consensus to give the representatives of each association an equal power of decision. These artists work as volunteers.

Copyright Visual Arts operates in both official languages of Canada.

CONTACT US

OTTAWA :

Email: administration@carcc.ca

2 Daly Avenue, Suite 250,
Ottawa, ON, Canada K1N 6E2

Telephone: 613 233-6161 / Fax: 613 233-6162

MONTREAL :

Email: administration@carcc.ca

2205, rue Parthenais, # 214,
Montréal, QC. Canada. H2K 3T3

Telephone : 514 866-7101 / Fax : 514 866-9906

HOW IT WORKS

These guidelines are included here for the information of MEMBERS of Copyright Visual Arts' and of users of their copyrights. They may also be of use to individuals in the general public who wish to inform themselves of the principles surrounding copyright use. **Copyright Visual Arts** uses the *CARFAC-RAAV Minimum Copyright and Professional Fees Schedule* only as a reference for the negotiation of licenses for uses of its MEMBERS' copyrighted works. **Copyright Visual Arts**

Membership

There are two ways for an artist to enter into a business relationship with Copyright Visual Arts: becoming a **MEMBER** or an **ASSOCIATE**.

- **MEMBER ARTIST** means an artist who grants Copyright Visual Arts a mandate for the management of all his/her copyrights as well as her/his professional services related to projects concerning his-her Art Works. Artists MEMBERS remain owner of their copyrights but they rely on Copyright Visual Arts to administer them on their behalf. This means that when an institution (museum, publisher, exhibition center, etc.) contacts a MEMBER Artist, the Artist gives the institution the contact information for Copyright Visual Arts which will then discuss the licensing with the institution. MEMBERS benefit from higher Copyright Royalties, more than the CARFAC-RAAV recommended minimums, and pay no administrative fees.
- **ASSOCIATE ARTIST** means an artist who grants a limited and temporary mandate to Copyright Visual Arts for the management of either his/her Exhibition Right, AND/OR her/his Reproduction Rights (including Reprography and Communication by Telecommunications), AND/OR Reproductions for Advertising AND/OR his/her Professional Services related to projects concerning his-her Art Works. ASSOCIATES can therefore pick and choose what they want Copyright Visual Arts to do for them. They generally receive the CARFAC-RAAV recommended minimums but pay no administrative fees and don't have to bother with negotiating licenses.

License to use the copyright of a Copyright Visual Arts MEMBER or ASSOCIATE

In accordance with the principles of the Canadian Copyright Act, all public exhibition and all reproduction (whether in whole or in part) of a work created by an artist MEMBER of Copyright Visual Arts must be authorized in writing by Copyright Visual Arts. Such written authorization is a *license* issued by Copyright Visual Arts. All unauthorized (unlicensed) uses are in contravention of the law. Licenses do not transfer ownership of a work, nor do they transfer copyright. Licenses define the limits of what a user may do with a work of art. Copyright Visual Arts makes every effort to negotiate non-exclusive licenses, meaning that the artist (and Copyright Visual Arts) retains all rights outside those granted by the license.

Transfer of ownership of a work does not mean a transfer of copyright

When a work of art is purchased, or acquired by gift, the new owner is not the owner of copyright in the work, unless there is a signed agreement that transfers copyright from the creator to the new owner. Owners of works of art who do not hold copyright must negotiate uses such as reproductions or exhibitions with the artist or Copyright Visual Arts.

Recommended Minimum royalties and Copyright Visual Arts

All royalties for copyright uses listed in the *CARFAC-RAAV Minimum Copyright and Professional Fees Schedule* are considered minimums. An artist may request a higher royalty or professional fee if it is offered. Copyright Visual Arts uses the *CARFAC-RAAV Minimum Copyright and Professional Fees Schedule* only as a reference. *The royalties it requests for the uses of works created by the artists it represents are more elevated than the recommended minimums. Artists who are represented by Copyright Visual Arts receive in general more royalties than autonomous or associated artists.*

Administrative fees

Copyright Visual Arts, like all copyright collecting societies, is largely financed by the administrative fees it collects on licensing artists' copyrighted works. In order to be able to help artists and Users deal with managing copyright, Copyright Visual Arts needs these fees. The administration fees are charged to the Users.

Online licensing system

Set to start in 2019 Copyright Visual Arts will offer visual and media artists and users of their works an **online licensing system**. When the Users use this automated system they will benefit from a reduction of 12.5% to 20%, according to the types of royalties, on the administrative fees billed, hence the interest of using this system.

Accreditation (right of paternity)

Crediting an artist for the use of a work is a requirement included as a moral right, the right of paternity, in the Copyright Act. All uses of any work by any artist must be credited in some form, unless the artist has waived the right, in writing. Copyright Visual Arts

licenses require that each reproduction or exhibition of a work by an artist represented by Copyright Visual Arts be accompanied by a notice containing the following information: *title of work, artist's name, year of creation, © COPYRIGHT VISUAL ARTS - Copyright Visual Arts, year the license is issued.*

Ex.: Abstract Fields, Jane Artist, 2012 © COPYRIGHT VISUAL ARTS - Copyright Visual Arts 2018

Such accreditation must appear in the immediate proximity of the reproduction and/or exhibition of the work or, if inappropriate, in the index of illustrations in a book or catalogue indicating the page on which the reproduction occurs. Failure to include the information in an integral and legible manner may result in a fine of 200% of the original royalty for use, without prejudice to the artist in pursuing legal action.

Definition of copyright royalties

Recommended minimum Copyright royalties are listed in the *CARFAC-RAAV Minimum Copyright and Professional Fees Schedule* and apply to the reproduction, exhibition, or presentation of works. The *Copyright Act* does not prescribe what copyright is worth – it only defines what kind of uses are subject to copyright, that is, where permission of the copyright holder is required. By implication, the holder of copyright may charge a royalty for a use. The *CARFAC-RAAV Minimum Copyright and Professional Fees Schedule* provides recommended minimum payments for most types of uses of visual and media works. Copyright Visual Arts requests in general higher royalties than the recommended minimums for the artists it represents.

- For **exhibitions** where works created after June 7, 1988 are not presented for sale or hire, the royalties are determined by the length of the exhibition, its scale, and the operating budget or nature of the exhibiting institution, and some other factors.
- For **reproductions**, the royalties are determined by applying the scale, factoring in variables like the type of support, size of print run, duration of license, territory of distribution, and so on, as required.
- Artists' **Professional Fees** listed in Section 4 of the *CARFAC-RAAV Minimum Copyright and Professional Fees Schedule* are not copyright royalties; rather, they are recommended compensation for work done in association with an artistic project such as an exhibition.

Royalty reductions for quantity

When a reduction of royalties is based on the “number of works” used, the number may refer to the number of works by artists represented by Copyright Visual Arts who are included in the license. By agreement, “number of works” may also apply to the number of works by one artist when several artists are involved.

Royalties proportional to sales

Royalties paid for the use of an artist's copyright can be in a form proportional to sales. Participation in proceeds from sales will be defined in particular contracts between editor and artist. Participation proportional to sales may be applied to publications such as the following:

- Monographs devoted mainly to one artist
- Editions of cards, posters, calendars or other objects bearing reproductions
- Editions of sculptures, prints, tapestries

Alteration of a representation of a work

Copyright Visual Arts licenses require that the user obtain special authorization, prior to the issuance of a license, for any alteration of a work as represented (changes of colour, proportions, cropping, over-printing of text, and so on). Any alteration permitted, should the user request it, is subject to approval by the artist prior to final production. This requirement refers to one of the moral rights of the author, the right of integrity, outlined in the Copyright Act. Moral rights rest with the artist unless a written waiver is in play.

Royalties Reduction linked to the Promotion of an exhibition or an event dedicated to the presentation of a work of visual or media art

In the case of an exhibition where the exhibition royalty requested by Copyright Visual Arts is paid, a **25% reduction** applies on all reproduction or communication of a reproduction of a work presented in the exhibition with the aim of promoting the exhibition.

Promotion by sales venues

When works are exhibited solely for the purpose of sale or hire, the party exhibiting the work is not subject to payment of an exhibition royalty provided its principal commercial activities are related to selling or hiring works of art. All others have to pay the exhibition royalty. The regular royalties for the reproduction or communication rights apply, notably when these uses are made to promote the commercial institution.

Penalty for unauthorized use

When works are exhibited, reproduced or communicated without the appropriate license by COPYRIGHT VISUAL ARTS-Copyright Visual Arts, the user will be invoiced retroactively by Copyright Visual Arts for all royalties due plus a penalty of \$100 or 25%, whichever is greater.

Payment

Invoices issued by Copyright Visual Arts for licenses are payable within 30 days of receipt. If an authorized use does not take place, a refund can be issued if Copyright Visual Arts receives written notification within 30 days of the signature of the license. For any refund, Copyright Visual Arts reserves the right to retain the administration fees.

Payment to artists

In general, the payment of royalties to artists is done within 30 days of their receipt by Copyright Visual Arts. For amounts under \$ 100, unless a MEMBER or ASSOCIATE specifically requests it, royalties are accumulated up to a total of at least \$ 100 before they are remitted to the artist. This in order to reduce our carbon footprint and save on the cost of producing checks.

Proof of Print Run

An authorization by Copyright Visual Arts for a reproduction is usually for a specific print run. Copyright Visual Arts has the right to demand and receive proof of the print run (such as a copy of the print invoice).

Duration of authorization

The user has up to two years for reproduction and one year for exhibition from the date of authorization to carry out the authorized use. At the end of this period a new request for licensing must be addressed to Copyright Visual Arts.

Advertising use (commercial or promotional)

Use is classified as advertising when the work is used to promote a service or product other than the work itself, the artist, or an exhibition including the work. For example, advertising use occurs when a work is used to promote a museum or gallery as corporation. Items - such as calendars, mugs, agendas, t-shirts, brochures - promoting the institution or company (bearing the name of such) are classified as advertising whether or not they are offered for sale.

Not-for-profit cultural organizations' royalties

Copyright Visual Arts recognizes differences in scale of the various institutions it serves. Small museums, exhibition centres, artist-run centres, cultural publications, and so on, benefit according to the categories set in the *CARFAC/RAAV Minimum Royalties Schedules*.

Fair Dealing

The Copyright Act does not define the concept of Fair Dealing, which means that infringement does not occur when a work is copied for certain limited purposes. Courts would look carefully at cases involving disputes over Fair Dealing to determine whether infringement has occurred. Fair Dealing includes copying for private study or research, for purposes of criticism, review or news coverage, satire or parody, or the limited use of small portions of a work (sometimes called incidental uses). Any claim for a fair dealing exception for educational uses should be carefully examined as to the fairness of the proposed use. In all cases the work must be fully credited as to the source and the name of the creator.

Appropriation

Some artists create works by using the works, or part of works, created by other artists. This type of use, commonly called « appropriation » requires an authorisation in writing by COPYRIGHT VISUAL ARTS-Copyright Visual Arts for all works of an artist it represents. An infringement to this rule may result in a legal recourse.

Copyright on photograph of art works

Unless specified by a contract between an artist and a photographer, the copyright on the photograph of an artwork remains with the photographer, following a 2012 change in the Copyright Act. This means that artists requiring a photographer to take pictures of their artworks must enter into an agreement specifying the authorized uses of these photographs by the artist. RAAV has developed a standard contract for that purpose; it can be obtained on request for free if you are MEMBER of either CARFAC or RAAV or a Membre of Copyright Visual Arts. A fee of 20\$ is asked to all others.