

**A Report
on
Home Taping
of Audio and Video Products
in Canada
and
Copyright Régimes
in other Countries
Dealing with Home Taping**

for the Director General
Cultural Industries
Department of Communications

by
T.M.Denton Consultants Inc.

6 March 1992

**Ottawa
Canada**

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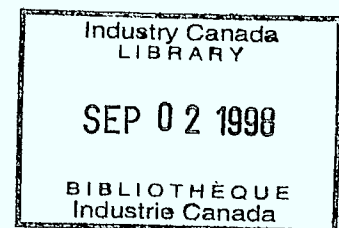
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Chapter One

Introduction

1. Why you are reading this report

Is home taping causing harm to the Canadian recording industry?

This report examines the extent of home taping in Canada and looks at ways of determining the economic losses to the Canadian recording industry and other copyright holders from this activity.

Since many European and other nations, including the United States, are responding to this problem by imposing a royalty fee on blank tape, we also look at what these régimes are doing in this area.

This study assumes that home taping occurs because it is easy and getting easier all the time, and satisfies consumer demand for access to broad ranges of music, despite the fact that it is illegal under Canadian copyright law.

We observe that the advent of digital technology is increasing the quality of home recorded music and the convenience of making tapes. In the near future, analog recording formats, such as current magnetic tape, will be replaced with digital recording, whose effect will further increase the quality of home recordings and, more importantly, permit perfect copies to be made from copies, absent a decision to prevent it technically.

It is the fear of the recording industry that digital copying technology and musical delivery formats will increasingly obviate purchase and sale as the normal way to acquire music. In that case the current means of securing copyright payments for rightsholders would be made obsolete.

We have concluded that home taping of music poses a serious problem to copyright holders now. The reasoning and calculations are given in Chapter Two. We find that royalty losses to rights holders in 1990 are estimated to be \$33.5 million, based on consumer survey results. If we base ourselves on a calculation that every tape made in 1990 generated a royalty payment, then royalties foregone amounted to \$194 million. It should be noted that the \$33.5 million figure depends greatly on the royalty component of each record, and that the consumer survey approach upon which we had to rely tends to a low calculation of foregone royalties. For

this reason we are confident that the \$33.5 million figure does not exaggerate the losses to rights holders.

We also found that roughly 30 million blank audio tapes enter Canada annually. Given the distribution of sixty minute to ninety minute cassettes (one-third/two-thirds), that means that 2,400 million minutes of blank audio tape enter Canada annually. A levy of half a cent a minute (\$0.005/minute) would generate \$12 million from this source. A half cent a minute levy comes to 45 cents on a C-90 tape, the most popular format.

Losses to the industries involved will become more serious with the introduction of digital technology in magnetic tape recorders and radio receivers. At the moment these devices are still overwhelmingly analogue. Why digital technology operates in this fashion will be explained further on.

For reasons that will be explained in Chapter Three, we find that the copying of video products, including television programs, appears to pose much less of an economic problem for copyright holders than does the copying of music. The principal reason for this, we believe, has to do with the ways in which royalties are already collected from broadcast television, pay television, and movie rentals. In addition, survey results show that most people copy in order to enjoy programs at a different time than when they are broadcast. Timeshifted television reception helps copyright holders maintain their revenues from programs.

Just as with musical products, the digitization of television signals will probably cause a transformation in the ways in which video products reach the home. It may then be timely to consider whether the existing means of collecting revenues on copyrighted material are proving adequate.

2. What other Countries are Doing

The United States and European countries are responding to the problem home taping causes to rights-holders by amending their copyright legislation to allow for a copyright levy on blank tape and recording devices in many cases. Australia and the United States have led the way in common law jurisdictions. The extent of response to the problem is documented in the Chapter Four, "International Comparisons".

These and other foreign countries have responded to the perceived problem of home taping by levying royalties on blank tapes. Generally such laws modify copyright legislation by:

- a) authorizing home taping in exchange for royalties collected on recording devices and tapes;
- b) establishing a rate of levy on devices and tapes by means of the statute, regulation, copyright tribunals or edict of government ministries;
- c) permitting rights-holding collectives to negotiate the distribution of levies among the groups concerned.

The several national responses to the home taping problem differ significantly in one important respect: the amount of the funds collected that are paid out to rights-holders, as opposed to the proportion reserved for nationals. The latter funds are spent for collective purposes, such as programs for the development of local talent.

Copyright law is entirely a creation of statute in each jurisdiction. It creates rights in property and offences that otherwise would not exist. Within the limits imposed by its international treaty obligations, Canada is free to adopt a copyright royalty régime of its own devising.

3. The Rationale for Compensation

Copyright law recognizes the importance of intellectual property for the well-being of society. In an information-age economy it is particularly important that copyright law keep up with the various ways in which intellectual property is disseminated and paid for.

Lawmakers will want to know why so popular an activity as home taping should be interfered with by levying a royalty on blank tapes. This study supplies information to help ponder and analyze this question.

In economic theory, intellectual property of the type found in musical recordings is an example of the private production of a public good. The "public good" nature derives from the fact that making a valuable product (a tape recorded at home) at very little cost is, in fact, possible. This has prompted some to observe that, "... ordinary market forces will not necessarily produce the most desirable social outcomes".¹ In any case, over the long run, the effect of unlimited copying on society's economic welfare is ambiguous. It depends, among other things, on

... the degree to which copying affects the demand for originals, the degree to which copying affects the production of new works, and the degree to which consumers value additional variety.²

Moreover, as the U.S. Congress' Office of Technology Assessment notes,

One area of continuing disagreement is whether only the effects of home taping (or a taping ban) on recording-industry revenues should be considered for policy formulation, or whether effects on blank-tape revenues and consumers' economic welfare should also be considered. A corollary to this disagreement is whether alleged lost revenues or lost profits and royalties should be used in considering "harm".³

The balance between gains and losses for producers and consumers includes

- whether producers increase the price of originals to reflect the value of copies, or whether they reduce prices in an attempt to discourage copying;
- whether retail vendors share with purchasers a small additional charge levied on a product; and
- to what extent copying is a substitute for purchase.

One of the most difficult things to prove is the relationship between home taping and financial losses to rights holders. Nevertheless, the notion that home taping reduces to some extent people's propensity to go out and buy another prerecorded music tape or cassette is intuitively reasonable. To that extent the consultants have assumed that home copying is a substitute for purchase.

With the help of surveys, it is possible to reduce the number of assumptions and derive reasonable estimates of economic losses to rights holders from the taping of music.

As regards video products, the absence of purchase and sale as the normal means of receiving them makes calculations of "losses" nearly impossible. For this reason and others we have not attempted to calculate economic losses caused by home taping of video products; it is entirely possible that home taping adds value to broadcast material by maintaining or reaching audiences that otherwise would be missed.

4. Issues of Measurement

One never escapes from arguments about cause and effect, the adequacy of assumptions and the sufficiency of evidence.

In principle, there are at least two ways to calculate losses to rights holders.

The first way is to use survey results to find out how much more prerecorded material would have been bought if home taping were impossible. The advantage of this approach is that it presumes people have a budget for music, and that trade-offs have to be made between less music at higher price (prerecorded material) and more music at a lower price (homemade tapes).

In the survey in question (CROP, 1989), the respondents replied in such fashion as to permit us to conclude that their purchases of blank tape resulted in the loss of three sales of prerecorded material annually. If they had responded "four" or "five", estimates of royalty losses would have been correspondingly higher. If you believe, as we do, that respondents would naturally incline to estimate on the low side, then annual royalty losses cannot be less than the figure this method produces.

The estimates derived in this fashion would have been improved if, when the survey was held, the respondents had been asked to make a decision based on price comparisons. Instead, in the survey in question, respondents were asked how many more prerecorded units they might have bought had home taping been impossible. In this way respondents had to evaluate their consumption of blank tapes against their own internal estimate of the price tradeoff. But there is a certain rough justice to the answer thus given.

The disadvantage of this method was that the survey question asked people about would-have-beens, a hypothetical conjecture about their own behaviour if home taping had been impossible.

The second way starts with an examination of the amount of blank tape imported into Canadian society and makes a series of calculations or assumptions about tape length, reuse of tapes, and other factors to derive the royalty losses from the total amount of home taping.

This method produces a much higher figure of economic loss to the industry, because it assumes that all the royalties foregone from home taping could somehow be captured. The consultants do not

think this is possible. It is like asking the question "how much more revenue telephone companies would have collected if everyone who phoned on off-peak hours had dialled at the full daytime rate?". Obviously they would have dialled less if they had had to pay the full price.

In the particular case of home taping, a pattern of behaviour has grown up based on the fact that royalty levies do not form part of the price of blank tape. The figure of economic loss thus derived does not mean that people would ever have consumed this amount of music if they had had to pay the full price.

The recording industry and the other rights holders recognize that no tape levy system will recapture royalties foregone from home taping. They are concerned however that their products should not be given away for free.⁴

The study uses both methods to calculate royalty losses from home taping. Economic reasoning suggests that royalty losses are closer to the low end of the range than the high. Still, the losses thus calculated are greater by far than what a modest tape levy would gather in return.

5. Digital Technology

Magnetic tape is the world's most popular recording format. It is about to become obsolete. Current recording equipment is analog. Newer taping technology, soon to be introduced, is digital.

Anyone with experience of copying from long play records to tapes will recall the difficulty of matching the tape length to the length of the long playing analog record. Compact discs by contrast make home taping accurate and faster. The cuts of music can be programmed to fit the length of tape, in any order the home tapper wishes. Double-bay tape decks make recording from tape to tape as difficult as making toast in a toaster. However, these tape devices are still analog.

Digital technology is likely to markedly improve the quality of home tapes and the speed and convenience with which they can be made. Hence the frequency of taping in the digital era may be more intense, with correspondingly greater damage to the economic interests of rights-holders.

An explanation why this is so may be helpful at this point. Digital technology is superior to analog technology in that it

copies better, or, to put it another way, there is less error in the transmission of the signal. In analog systems, such as we have in tape decks now, copies of copies become progressively worse because of the errors in replication that are built into analog signalling.

Any analog sound pattern, when expressed visually, looks like a complex series of vertical markings, or highly irregular waveforms. Voiceprints or seismographs are examples of sound captured on paper.

It is the function of digital recording device that it samples the points on a waveform and encodes the position of the points numerically. These numerical positions are expressed in a binary notation, in zeros and ones. It is the virtue of such a notation that it corresponds to a switch being opened or closed, or a current being on or off. The "on-off" nature of the signal, at any given point in time, reduces ambiguity. For this reason digital technology is gradually replacing analog, in telephone systems as well as sound recording. The accuracy with which the music - or any other signal - is captured depends on the frequency with which the originating signal is polled. In digital recording, the signal is polled several thousand times a second. The human ear is incapable of hearing a difference.

Broadcast radio and television, and magnetic tape recorders, still function in analog signals. Plans are afoot to transform the broadcast radio system to digital. The same increase in transmission quality will follow in radio that has occurred in going from scratchy long playing records to compact discs. The analog era will eventually be looked upon as the equivalent of the Bronze Age.

It follows that, as every part of the broadcast music system moves to digital technology, and as services become available that deliver music to the home digitally for a monthly fee, the advantages of home taping over record purchases may become paramount.

There are already available satellite-delivered pay music radio channels in the United States. The pay music channel pays the copyright holders once for permission to play the music. Thereafter, no royalty payment need be made by anyone, no matter how many times the music is reproduced. It is the fear of the music industry that digital transmission technologies will tend to eliminate, or sharply reduce, the act of purchase and sale as the normal way of acquiring musical recordings, and thus undermine the viability of the industry.

Endnotes to Chapter One

1. United States Congress, Office of Technology Assessment, Copyright and Home Copying, Technology Challenges the Law, Washington, D.C., p.172

2. ibidem, page 173

3. ibidem, page 174

4. Interviews with Brian Robertson of CRIA, Brian Chater of CIRPA and David Basskin of CMRRA were unanimous on these two points.

5. Interview with David Basskin, President, Canadian Musical Rights Recording Association, January 10, 1992

Chapter Two

Blank Audio Tape Use in Canada

1. Home Entertainment Equipment

Cassette recorders, whether as a separate unit or as part of an AM-FM radio, are now all but standard household equipment. Thus, StatsCan's 1990 Household Facilities Survey (13-218) shows that, among the nation's 9,624,000 households:

67.4%, were equipped with audio cassette recording devices.
66.3% had VCRs.

Figure 1 portrays regional household penetration rates of selected home entertainment equipment in 1990.

2. Blank Audio Tape Purchases

In the area of blank audio tapes, how do households in Canada compare with those of other countries? Figure 2 puts this in context, ranking mean 1990 audio tape purchases per household among selected countries. They are based on information from the International Federation of Phonograph Industries' (IFPI) estimate of world-wide trends. The estimate for Canada is based on the CROP survey projection of 32.8 million cartridges (discussed below). Thus, the average Canadian household bought 3.4 blank audio tapes in 1990. This compares with 4.2 in the U.S., 5.4 in Germany, 4.3 in the U.K., and 2.6 in France.

3. Audio Tape Surveys

The consultants had the advantage of reviewing several surveys of the extent of home taping. The results are set forth below.

The Ontario Ministry of Culture and Communications supported a "Study on Home Taping", conducted by (the now defunct) For/Cast Communications Research Inc. on behalf of the Canadian Independent Record Production Association in 1987. The For/Cast survey, conducted in Toronto and London, Ontario, states that,

63% engage in audio home taping;
mean purchase: 9.5 tapes;
47.6% tape from sources "which they do not own"(?);
58% re-use their tapes;
86% record rock, top 40, and country music;

45% favour compensation for lost income due to home taping, but 55% oppose it.

The above 63% who engage in home taping compares with CROP's result of 32% - which included tapers aged 15 and over (see below). A survey conducted on behalf of the U.S. Congress' Office of Technology Assessment (OTA) put the number at 40% (which includes tapers aged 10 and more).

The consultants have based many of their conclusions on the results derived from the CROP survey, discussed below.

4. The CROP Survey of Audio Taping

Caveat

Early in 1989, CROP conducted an audio tape survey by telephone. Given the fact that only 623 respondents, or 18% of CROP's random sample of 3,457 households, acknowledged home taping, the following projections of taping in the nation's households needs to be treated with caution.

Fifty eight percent (58%), or 2,009 out of 3,457 individuals randomly selected and telephoned at home were willing and/or able to respond to the survey questions.

4.1 A Taping Profile

Figures 3 and 4 offer a profile of home audio taping. 31% of the 2,009 households surveyed by CROP, that is, 623 respondents stated that they make audio tape recordings at home, and that, on average, they purchased 11 blank audio tapes in 1988. All subsequent responses to CROP questions pertain to only these 623 respondents.

4.2 How Many Blank Tapes Were Retailed?

In 1988, the year to which CROP's survey questions pertained, Canada had 9,335,000 households (StatsCan, 13-218). Projecting CROP's 31% to the total number of households in Canada where audio taping took place, suggests 1988 purchases of $(2,894,000 \times 11)$ 31.8 million blank audio tapes. If the same household purchasing pattern prevailed in 1990, retail sales of blank audio tape would have been 32.8 million cartridges.

(a) Amount of Taping

Although the average "home taper" purchased 11 blank tapes in the course of a year, he/she utilized an average of 13 tapes for recording (CROP survey, Q.4). Thus, projected to 1990, the quantity of material taped may be equivalent to 39 million cartridges.

(b) Taping Frequency

7% engage in the practice "regularly".
25% "occasionally"
68% "never" copy at home.

(c) Copying over Existing Tapes

Sixty five percent (65%) of those who tape, reported copying over already used tapes (15% do so regularly, and 50% occasionally).

(d) Taped From What Source?

31% copy material off the radio. 36% copy from their own albums.
24% copy from material borrowed from friends. 9% had no response.

(e) Type of Music

35% - rock and disco	27% popular music
15% - other	11% country
9% - classical music	3% jazz and blues

Thus, nine out of ten albums recorded onto tape includes material from regular, popular recording artists.

(f) If Taping were Impossible, How Many Additional Prerecorded Albums, CDs, and Tapes Might Have Been Bought?

The 31% of households who acknowledged taping at home, purchased an average of 14 albums, recorded cassettes, and CDs. That same percentage claim that, if it were impossible to copy, they would, on average, have bought 17 units of prerecorded material. This tenuous survey question suggests that, absent the ability to record, an additional 9 million albums, recorded tapes, and compact discs might have been bought in 1988. This is derived as follows: 9,335,000 households x 31% which tape x 3 sales foregone = 8,681,550 sales foregone.

5. Some Limitations

The CROP survey appears to be insufficient from a number of points of view. Thus,

- The focus on active tapers, as opposed to the general population, does not permit analysis and projections for the country as a whole. The survey was designed in such fashion that those who did not admit to taping at home were not asked further questions.
- The survey was conducted by telephone. In other words, it was not a random sample of the population at large being queried by means of a face-to-face interview. However, CROP interpreted the results as if it had been a population survey.
- The flaw of interpreting the results without attention to detail is best illustrated by CROP's summarizing the responses to question 4: "How many blank tapes did you buy last year?". The calculations for Quebec pointed to purchases of 27.88 million units in 1988. CROP claims (Survey Analysis, p.83) that Quebec respondents appear to have "overestimated" purchases, and proceeded to "adjust" the results by claiming that in 1987 actual sales in Quebec were 10.3 million cartridges. CROP adjusted this by a factor of $(27.88/10.3) = 2.7$. CROP admits that it could find no source which might permit it to analyze the "overestimation" with respect to the rest of Canada.
- Motivation for taping: although 30% state that taping takes place to save money, a larger proportion (39%) responded that taping takes place "to have what I want" and "to have greater variety that suits my purpose".
- No attempt was made to question tapers about how they value their home-made tapes. In the U.S., tapers were asked this question, and the subsequent analysis showed that each home-made tape was "worth" about US\$10.25 to the taper.
- When asking how many tapes a person would have bought if home taping had been impossible, the respondents were not given any average sale prices of blank and prerecorded material upon which to base their estimate.

6. Household Spending

A household typically allocates some budget to "home entertainment equipment and services" (the term is used by StatsCan in its Household Expenditure Survey conducted once every four years). As Figure 5 shows, such spending ranged between 1.7% and 1.9% of the typical budget.² Not surprisingly, the share varies with regional levels of income. Equally important is the fact that over the past decade or so, the average proportion of household budget spent on home entertainment equipment and services has scarcely changed.

7. Foregone Sales

As Table 3 shows, CRIA estimates the wholesale value of 1990 Canadian record sales at \$392 million. The 1990 average blended wholesale price of singles, LPs, CDs, and prerecorded audio tapes was \$7.50. If this average 1990 price of the additional recorded material respondents claim they would have bought (had it not been possible to tape) was \$7.50, "foregone" sales might be in the order of \$70 million in Canada (9 million additional units x \$7.50 = \$67,500,000).

8. How Should One Calculate Foregone Royalties?

In the United States, the Office of Technology Assessment (OTA), a branch of the Congress, noted that "of the wholesale price (approximately \$5.00 for an LP or cassette), perhaps \$1.00 will go to the artist, and another \$0.55 will go to the music publisher and song-writer".³ Royalties, in other words, amount to approximately 31% of the wholesale price. This proportion was also found to obtain in Canada, at 36%.⁴

If 31% of the above \$67.5 million foregone wholesale value were allocated to royalty rights holders, then foregone royalty fees would have totalled \$20.925 million and \$24.3 million at 36%.

However royalty losses are greater than this, for a reason we shall now explain. Royalty payments to artists in Canada and the United States are not based on the average unit sale price (the \$7.50 figure for 1990, derived from Table 3), but mostly on the suggested list price. Some companies do not have a suggested list price (SLP), and so they base it on the normal trade wholesale price. However, this price is not the same as the average unit sale price (revenues received/ units sold) shown in Table 3, which records the financial results of the industry but not its royalty

obligations.⁵

The result is that the average royalty component of a Canadian prerecorded unit was \$3.86, being 36% of \$10.74. The figure of \$10.74 was derived from the blend of cassette and CD sales of CRIA members in 1990, and the royalty components at suggested list price.

The explanation for the difference between the \$10.74 average blended wholesale sales figure and the \$7.50 average blended wholesale sales figure from Table 3 is as follows. First, royalty payments are based in contracts with recording companies on suggested list prices or industry wholesale prices. These prices do not accord with actual average sales prices (units shipped/revenues earned) for the following reasons. There is a free goods allowance of up to 15%, essentially a bonus shipment to record retailers that the recording company may offer under certain conditions. Second, there can be promotional deals in lieu of advertizing, whereby the record company agrees to offer its product at below suggested list price.

Since the royalty payments do not depend upon the actual average unit sale price, it is appropriate to calculate the proportion that royalties represent of the total price on the basis of the higher suggested list price, upon which royalty obligations are principally derived. Given the figures supplied by CRIA for 1990 which were based on suggested list prices before discounts, that price turned out to be \$10.74.

Thus we multiply the number of taping households (31% of 9.335M households) by the number of foregone sales (three) by the average royalty component foregone ($.31 \times 9.335M \times 3 \times \$3.86 = \$33,510,783$) to arrive at an annual estimated royalty loss of \$33.5 million.

9. Second Approach to Foregone Royalties

So far the royalties foregone have been calculated in terms of the additional records that would have been bought if home taping had been impossible. These were derived from survey questions, where it was determined that three additional units of prerecorded music would have been bought under these conditions.

The second basic approach to determining foregone sales and royalty revenues begins with the consumption of blank tape in Canada. It makes a series of calculations about blank tape use and calculates the royalty loss as if every such use would have generated a royalty payment.

The consultants wish to emphasize that this condition would never be fulfilled in reality. People would always calculate the cost of their behaviour and adjust it accordingly.

Such a calculation of royalties foregone would work this way:

Take: number of blank audio tapes imported (A)

Subtract: number of blank audio tapes used for telephone answering machines and others in wrong size or inappropriate sound quality for taping (B)

Multiply by: number of times tapes are recorded over (RR)

Multiply by: Coefficient of prerecorded tape length to blank tape length, to get the number of records that are squeezed onto tapes. This depends on the mix of C60, C90 and C120 tapes being sold; (TL/tl)

Multiply by: Value of royalty rights in an average CD or cassette (RV). Note that the derivation of this value depends on the mix of CD's to prerecorded cassettes being sold in any year, and the respective royalty payments made for records in each format.

The formula would thus be:

$$(A - B) \times RR \times TL/tl \times RV.$$

10. Calculation of Blank Tape Imports (A)

Industry sources estimate 1990 imports of blank audio tape at between 31 and 32 million cassettes. Since magnetic tape is not manufactured in Canada, domestic consumption relies on imports. It should be noted that industry sources were anxious not to disclose the blank tape import levels of their particular firms.

Figure 6 compares blank magnetic tape imports in 1986 and 1990. There are two features that limit the use of official statistics for the present purpose of trying to estimate the number of audio cassettes retailed in Canada:

1. At the behest of the importing industry, StatsCan does not list quantities - usually the number of cassettes - of blank audio tape imported; and

2. About half of the import value of blank video tape - 6.5mm or greater in width - pertains to "imports in cartridges". The rest arrives in bulk. In other words, estimates of actual quantities of final consumption of blank video tape in Canada must also be treated with caution.

Table 1 shows that in the first 9 months of 1991 import values of blank audio tape remained at nearly the same level as in 1990. Blank video tape imports, however, nearly doubled in value. We derived a figure for 1990 unit import values of blank audio tape ranging between 90 cents and a dollar per cartridge. Thus, at 95 cents, 1990 imports would have totalled 31.3 million cartridges. At 90 cents, the figure is 33 million cartridges. Absent specific responses from Canadian blank tape importers, it was impossible to be more precise.

11. Tapes not Used for Music (B)

The lower end of blank tapes are suitable for voice recording but are not generally considered suitable for music. However, we were informed that, of sales in the lower end ferric magnetic tape, usage was "ten to one" for music over voice. Moreover, telephone answering machines are supplied with their own magnetic tape. Thus, both these facts give us reasonable confidence that very few of the blank tapes imported into Canada are used for purposes other than music recording. So a figure of 30 million (A - B) seems reasonable .

12. Putting a Value on Royalty Payments (RV)

CD's are now selling in the ratio of 20M CD's for every 24M prerecorded cassettes, and the ratio is changing yearly, as CD sales increase and cassettes decline. Based on royalty payments of \$3.35 a cassette and between \$4.50 and \$4.75 for a compact disk, for the first nine months of 1990, we derive a composite royalty payment of \$3.86 per prerecorded unit (36% of \$10.74) if these ratios and components hold true.

13. Putting a Value on Rerecording Frequency (RR)

The CROP study said that the average blank tape is rerecorded 2.3 times. So high a frequency is completely outside our experience. Recall that tape imports increase year over year, and

that over 30 million blank tapes enter the economy every year. It seems to us more likely that tape rerecording is more on the order of 1.05; five percent of tapes are taped again in any given year, and even this may be high.

14. Putting a Value on Tape Length (TL/tl)

In the United States, 71% of blank cassettes are sold in the C90 format, that is, 45 minutes to a side, and 24% in C60 in 1990.⁷ This is basically a three-to-one ratio. We have reason to think that tape preferences are similar in Canada; our respondents in the industry, while not specific, stated that C-90's outsold C-60's by a considerable margin. C-90's will generally accommodate one prerecorded cassette per side, but generally new compact discs contain somewhat more than 45 minutes of material per disc. C120's are too thin and not recommended, and they are not a significant component of sales; car stereos eat them.

Of thirty million blank tapes, then, roughly twenty million would be C-90's and 10 million C-60's. If C-90's hold two prerecorded tapes and C-60's only one, as seems reasonable, then the sum of thirty million blank tapes would hold $(2 \times 20 \text{ million} + 1 \times 10 \text{ million}) = 50 \text{ million recordings}$, or a ratio of 1.6 prerecorded tapes for every blank tape.

$$(A - B) \times RR \times TL/tl \times RV.$$

If $A - B = 30 \text{ million tapes in 1990,}$

$$RR = 1.05$$

$$TL/tl = 1.6$$

$$RV = \$3.86$$

Then royalty revenues foregone could be \$194,544.00 in 1990 under these assumptions. Once again we wish to emphasize that this loss is purely theoretical. We do not suggest that the industry could have captured revenue and royalties from all these tapings, nor does the industry itself.⁸ This figure presents the maximum loss as if all revenues from home taping could have been captured.

Table 1
Imports of Unrecorded Magnetic Tape
Canada

Width: up to 4mm		4mm-6.5mm		over 6.5mm	
audio		special video*		video	
1986	1990	1986	1990	1986	1990
<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Import Value (\$'000)					
66,035	29,717	37,515	25,655	124,760	122,144
share of above imports in cartridges**					
Value (\$'000)		12,500		61,210	
Cartridges ('000)		9,220		24,540	
\$ /cartridge		1.35		2.50	
% share of imports in cartridges					
		48.7		50.1	
January - September					
1990	1991	1990	1991	1990	1991
<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Import Value (\$'000)					
20,583	21,312	20,575	24,241	88,168	107,814
share of above imports in cartridges**					
Value (\$'000)		7,820	11,025	45,055	79,753
Cartridges ('000)		5,760	7,668	17,913	32,509
\$ /cartridge		1.35	1.43	2.51	2.45
% share of imports in cartridges					
		38.0	45.4	51.1	74.0

*For use in security recording devices, camcorders, etc.

** StatsCan, International Trade Div., HS-10 data
Source: StatsCan, Imports by Commodity; 65-007

Notes on Table 1

Blank tapes of a width not exceeding 4mm (blank audio tapes)
Standard audio tapes.

January-September data for 1991 show a 3.5% rise of import value.

4mm-6.5mm (computer tapes). In 1991, 51% of this tape category was imported in cartridges. The rest entered Canada in bulk.
January-September data for 1991 show a 15% rise in value.

Over 6.5mm (blank video tapes). In 1991, 74% of blank video tape was imported in cartridges - up from 50% in 1990.

Table 2
Households Equipped with...
Canada, and Provinces, 1990

	Canada	Urban	Ontario	Quebec	West	Atlantic
Number of Households ('000)						
	9,624	5,909	3,479	2,533	2,829	783
	100.0%	61.4%	36.2%	26.3%	29.4%	8.1%
Household Income (\$ in 1989)						
Mean	43,838	46,741	50,588	39,159	41,570	37,167
Median	38,026	40,364	43,800	34,502	36,570	32,357

Per cent of Households Equipped with

1. Audio Tape Recorders	67.4	67.7	69.0	57.9	73.2	69.8
2. VCRs	66.3	66.6	69.0	63.2	65.8	65.8
3. Cable Converters	45.2	55.9	55.2	47.5	33.8	34.5
4. Pay TV	11.9	13.5	14.4	8.1	13.0	9.3

*Urban areas with population of 100,000+
Source: StatsCan, 13-218

Table 3
Record Sales in Canada
(million units) 1986 - 1990

	1986	1987	1988	1989	1990	1991
7" & 12" singles	8.2	6.2	5.2	3.1	0.3	nil
LPs	16.8	14.2	8.1	3.6	-.056	-0.26
CDs	3.3	6.2	8.9	11.9	15.8	21.4
Sub-Total	28.3	26.6	22.2	20.7	16.1	21.2
Prerecorded Cassettes	30.8	31.5	34.4	36.2	31.4	25.8
cassette singles				2.1	4.8	2.5
cassette maxi-single						.06
music video						.45
TOTAL	59.1	58.1	56.6	59.0	52.3	49.9
Wholesale value in million dollars						
	310.8	333.4	367.3	387.5	392.3	425.3

Source: Canadian Record Industry Association, two charts
"Canadian Record Sales Statistics 1981-1990" and "Industry Statistics for the Month of December, 1991" giving 1991 and revised 1990 figures.

Endnotes to Chapter Two

1. The direct source is the consulting firm called Understanding and Solutions, "The World Prospects for Blank Audio and Video Tape" slide presentation to a copyright law conference, 1991, from the IFPI library. The sources of information for that report come directly from the tape industry itself, according to Mrs. Sarah Carroll, Principal of the firm and person responsible for the study (UK telephone 44 582-607744).

2. These are preliminary estimates based on StatsCan's 1982 and 1986 Family Expenditure Survey results. 1990 results - available in mid-February 1992 - will be used in the final report if published in time.

3. Congress of the United States, Office of Technology Assessment, "Copyright & Home Copying, Technology Challenges the Law", October 29, 1989, page 94.

4. $(\$170.4 \text{ M royalties} / \$472.4 \text{ M sales}) = 36\%$, which is got by $(20 \text{ M CD's} \times \$4.50 \text{ royalty component} + 24 \text{ M cassettes} \times \$3.35 \text{ royalty component})$ divided by $(20\text{M} \times \$13 \text{ wholesale price CD's} + 24\text{M} \times \$8.85 \text{ wholesale price cassettes})$.

Source: Interview with Brian Robertson, President, Canadian Recording Industry Association, 8 January 1992.

5. Conversation with Brian Robertson of CRIA, 6 February 1992, and confirmed by David Basskin, executive director of CMRRA, in conversation with the author 24 February, 1992.

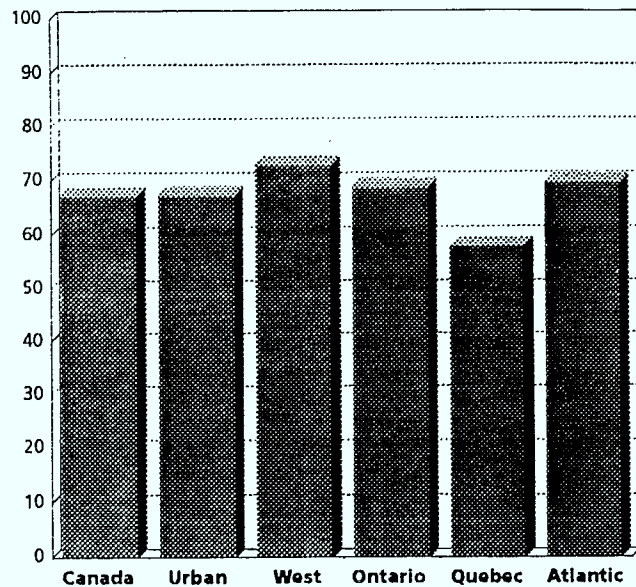
6. Brian Robertson, CRIA, in conversation 8 January 1991. Mr. Robertson supplied breakdowns of the components of wholesale prices in 1990, including royalties.

7. "The World Prospects for Blank Audio and Video Tape" by Understanding and Solutions, cited above, chart entitled "Blank Audio Tape Market, Importance of Length, 1990".

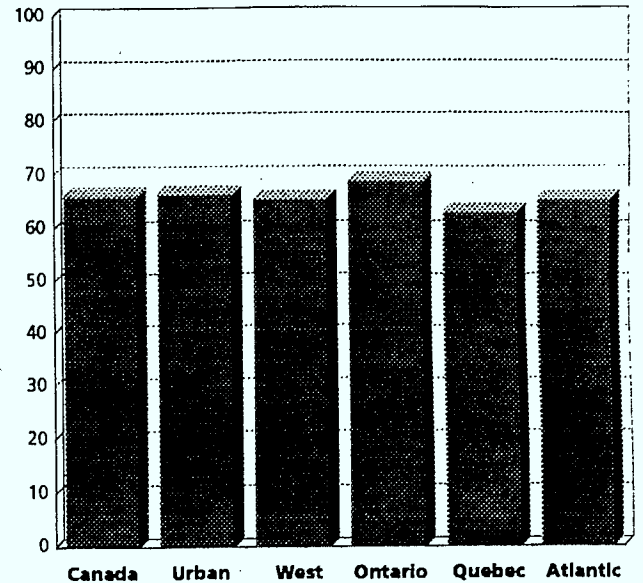
8. Interviews with the Canadian rights holder organizations revealed that they do not expect a tape royalty to recover the lost sales caused by home taping.

Figure 1
Percent of Households with...
(1990)

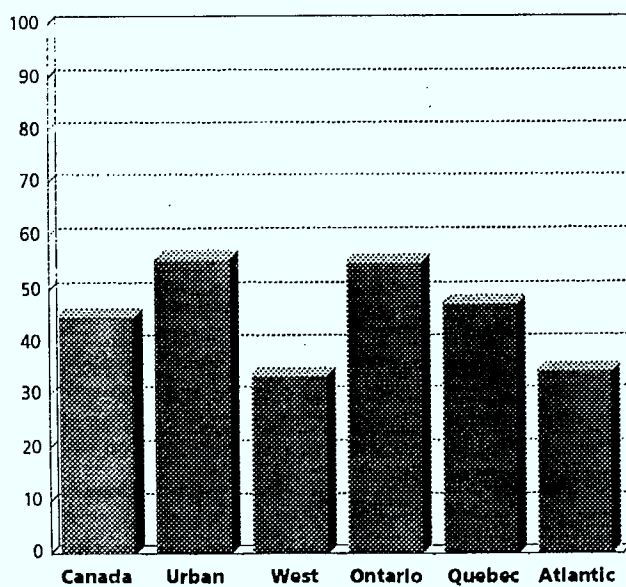
Cassette Recording Devices



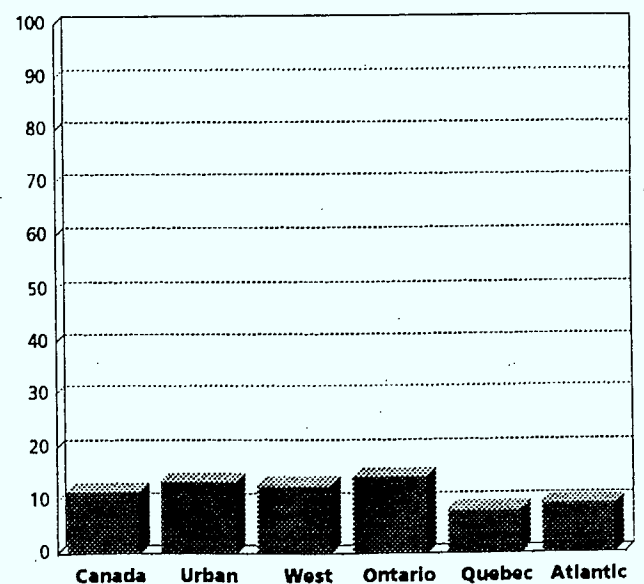
VCR's



Cable Converters

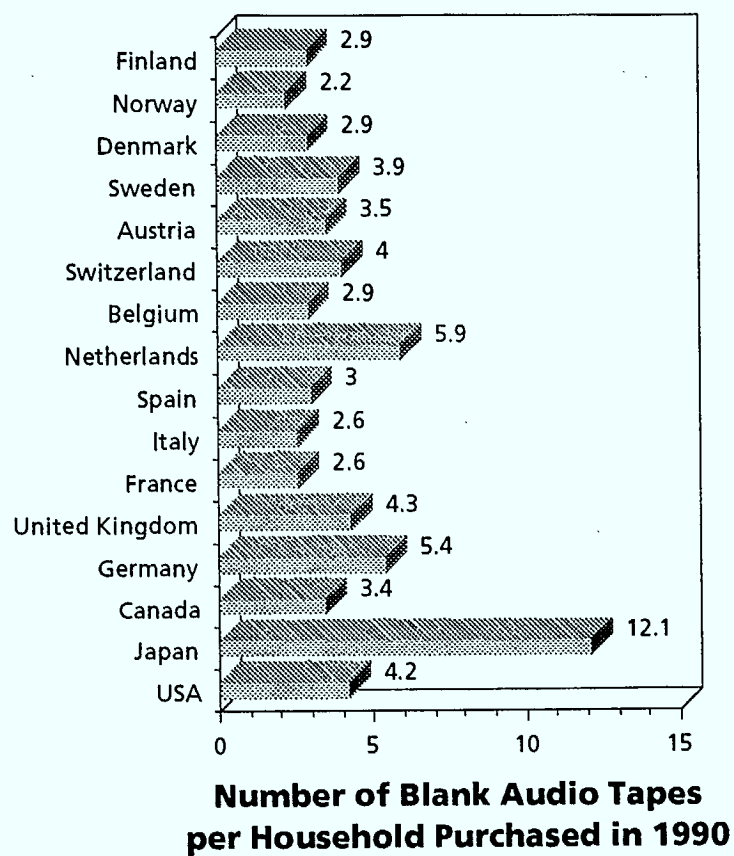


Pay TV



Source: Table 2.

Figure 2



Source: IFPI

Figure 3

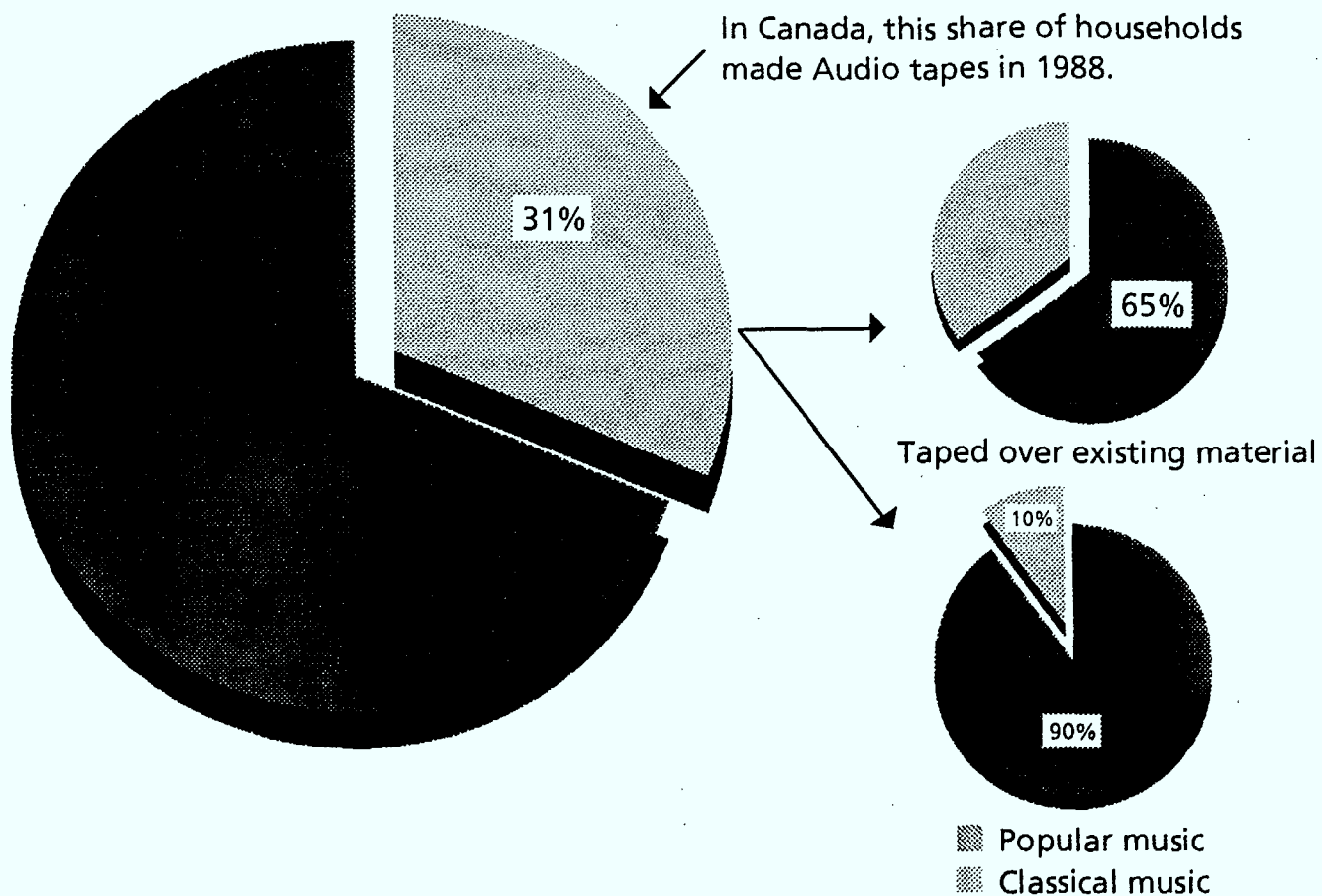


Figure 4
The One in Three Households
Where Audio Taping Took Place in 1988...

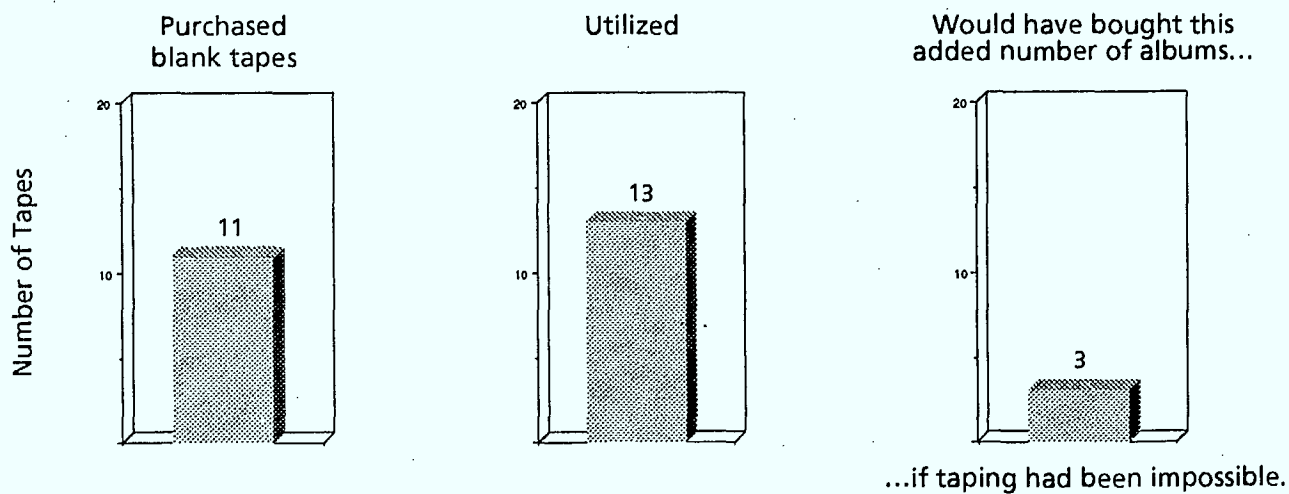
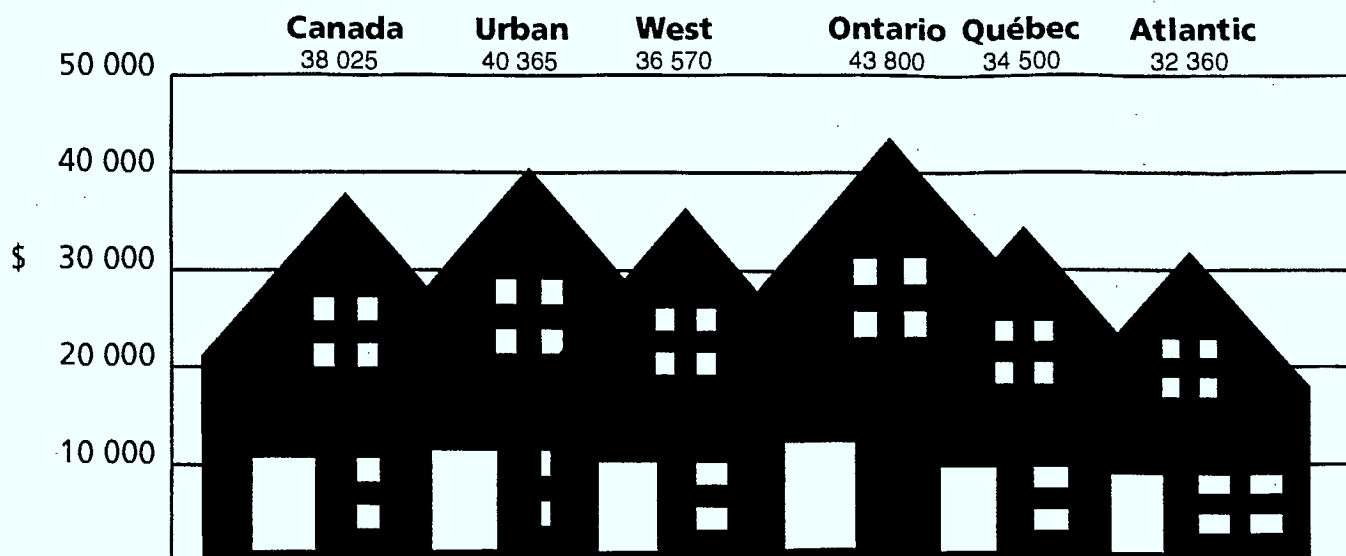
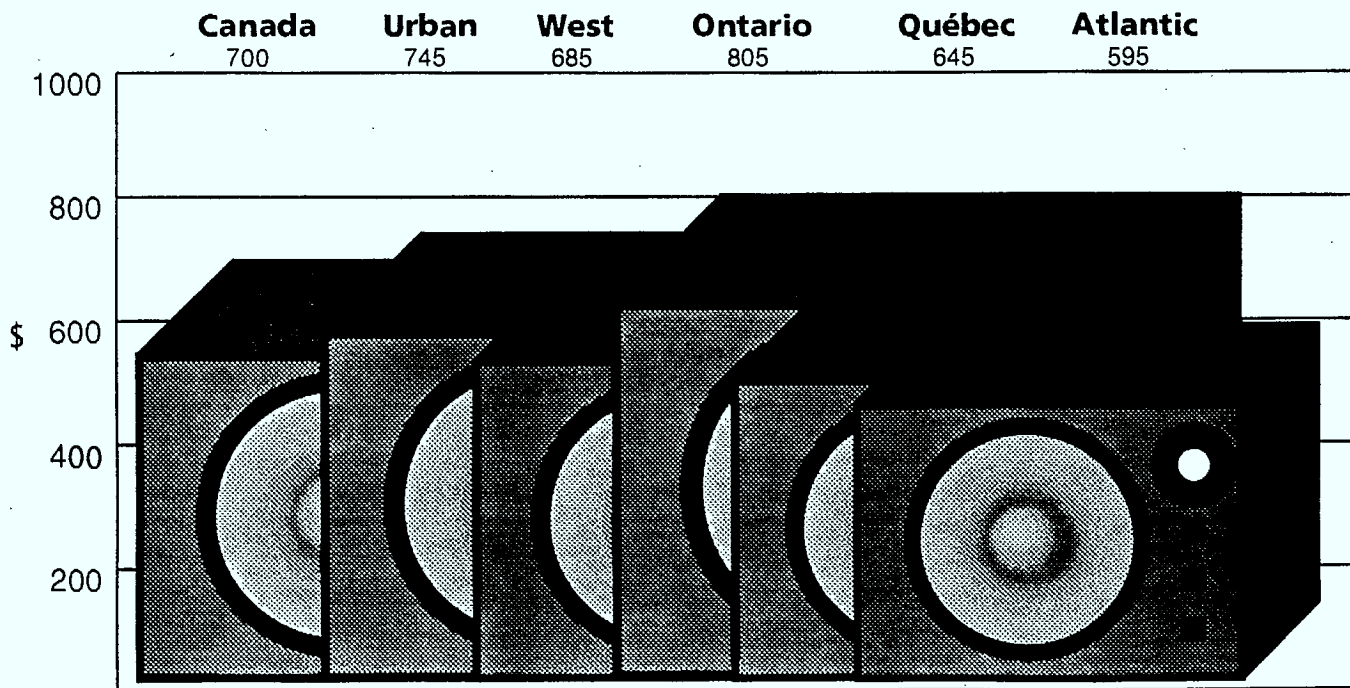


Figure 5



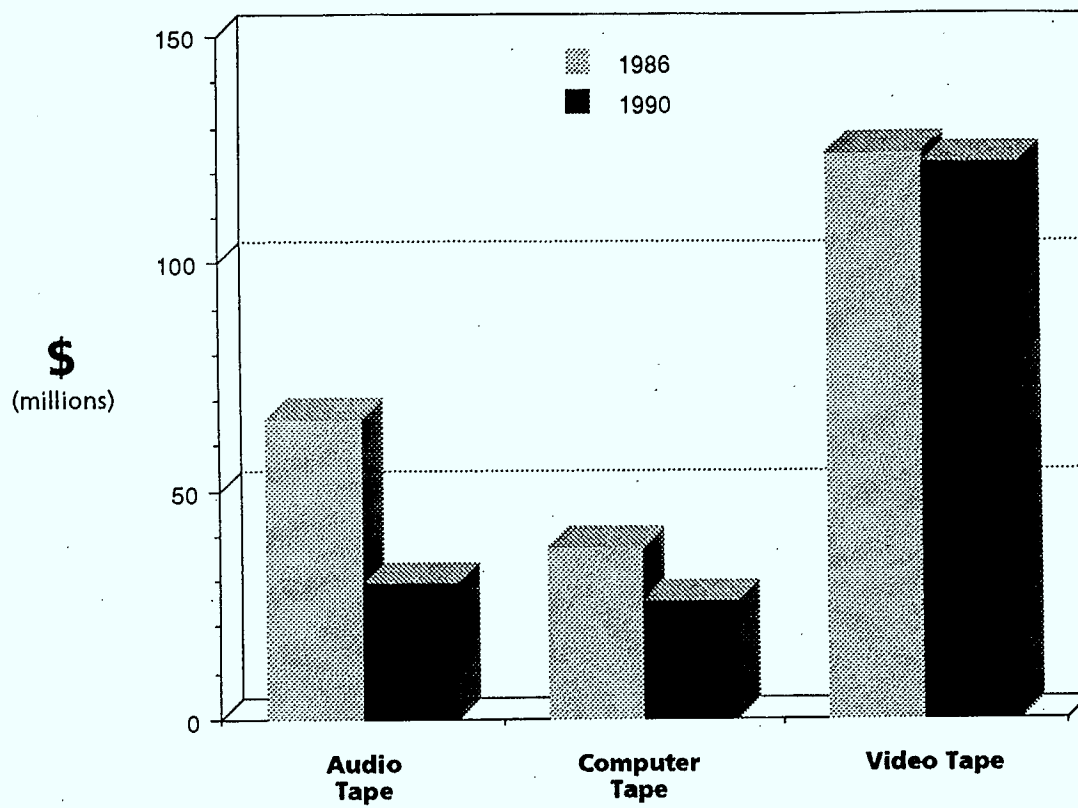
Median Household Income, 1989



Spending on Home Entertainment Equipment & Services

Source: Based on Statistics Canada, 65-555

Figure 6
**Blank Magnetic Tape Imports,
Canada, 1986 and 1990**



Source: Table 1.

Chapter Three

Blank Video Tape Use in Canada

1. Video Tape Survey

The Department of Communications commissioned the Gallup polling organization to conduct a national video home recording survey at the same time as this study was undertaken.¹ We have had the advantage of examining the data upon which Gallup based its results. At our request Gallup also kindly agreed to sort its data as follows: a) all respondents, b) VCR owners and c) occasional VCR renters.

Survey questions on VCR renting patterns were structured on the basis of the "past three months". The survey was conducted at the beginning of February 1992 - a season when people's home entertainment activities are markedly different from patterns prevailing in the summer, when better weather keeps people outdoors. Because of the timing of the survey, annual rental rates may be overestimated by anywhere between 10 and 20 per cent.

Questions about blank tape and prerecorded tape purchases asked: "in the past year,....". Again, since the shopper may recollect purchases during the immediately past holiday season - but not necessarily amounts acquired in June through August - responses would seem to be generous. A ten per cent reduction may be appropriate. In the sections following, no such adjustments for different summertime consumption patterns have been made to the data.

2. VCR Ownership

The basic fact to remember is:

1991 Number of Households in Canada: 9,873,000 (StatsCan)

Gallup found that 1440 (68.6%) of the 2100 households surveyed own an average of 1.25 VCRs per household. 69 of the 1440 households, or approximately one in twenty, also keep a VCR outside of their principal residence (cottage, etc.).

Accordingly, VCR ownership in Canada by households is:

$(.686) \times (9,873,000) = 6,770,000$ households own VCRs.

3. Occasional Renting/borrowing of VCR

It was found that 55 (8.3% of all households not equipped), occasionally rent a VCR. Only 52 respondents (2.5% of the total sample of 2100) offered details. Over a three-months period, they average 1.6 rentals; or an estimated 6.4 times a year. Thus, in 1991, occasional VCR users, rented an estimated

$$6.4 \times (9,873,000 \text{ HH's}) \times (0.025) = 1,579,000 \text{ VCR units}$$

4. VCR Owners who also rent VCRs

162 (11.2%) of the 1440 VCR owners claim to have rented or borrowed a VCR occasionally. However, only 151 of these respondents offered details. Our estimates are based upon these 151 respondents.

151 (10.5%) of the 1,440 VCR owners also sometimes rent a VCR. In the last 3 months, they averaged 1.82 rentals, for an estimated 7.28 rentals per annum. Thus, VCR owners rent an estimated

$$7.28 \times (6,770,000) \times (0.105) = 5,175,000 \text{ units per annum}$$

5. Estimated total 1991 VCR rentals in Canada (rounded):

	VCRs	%
Occasional renters	1.6 million	23.5
VCR owners	5.2 million	76.5
	-----	-----
Total	6.8 million	100.0

5. Estimated Total Blank Tape Purchases in 1991

(a) VCR owners

In the past year, 1316 of the 1440 VCR owners (91.4%) averaged retail purchases of 6.85 blank tapes (Median: 5). Based on average purchases, this means 1991 purchases of

$$(6.85 \text{ tapes}) \times (6,770,000 \text{ VCR HH's}) \times (0.914)) = 42,381,000 \text{ blank video tapes} - \text{Total based on median: } 30.9 \text{ million.}^2$$

(b) VCR renters - Other than owners

41 of the 52 households (1.95% of all survey households), purchased an average 2.22 (Median:1) blank tapes, for a total of

$$2.22 \times (9,873,000 \text{ HH's}) \times (0.0195) = 428,000 \text{ blank tapes}$$

Total based on median 192,000.

Combined Total blank tape purchase estimate for 1991:

(million units; figures are rounded up):

Based on:	Median	Mean
VCR owners	30.9	42.4
Renters	0.2	0.4
	-----	-----
Total	31.1	42.8

VCR owners put the average purchase price of a blank tape at \$5.72.

45% of VCR owners tend to lend recorded TV programs to friends.
81.4% of all VCR owners regularly engage in timeshifting.

6. Recording TV Programs To Build Private Collections

The question of how many hours a month of television were taped was asked only of those respondents who acknowledged building a private collection.

(a) Assembling a Private Collection

Although 234 (16.25%) VCR owners report building a private collection, only 211 (14.65% of all VCR owners) offered details on the number of hours taped. The results follow:

Recording for a Private Collection

	Monthly	Annual
Average	8.49 hours	101.88 hours
Median	5 hours	60 hours

(b) Projections for Canada: Estimated total hours in 1991:

$$101.88 \times (6,770,000) \times (.1465) = 101,045,000 \text{ hours}$$

At 2 hours/tape, this implies 50.5 million tapes.
 At an average of 3 hours/tape, the estimate would be 33.6 million tapes. At six hours per tape, the maximum duration of commonly available tapes, the result is 16,844,000 tapes.

Alternatively, assuming that the 101 million hours were recorded on 42 million tapes, the average tape made at home may be 2.4 hours in length.

7. Type of Program Taped Off Television

510 (35.4%) of the 1440 VCR owners said they "frequently" taped feature films. 517 (35.9%) said they "sometime" taped feature films. Some eight categories (drama, sports, sitcoms, etc.) were offered to respondents. A respondent may have recorded material in every one of the eight categories. Respondents were asked "...whether the given type of program was recorded (1) frequently, (2) sometimes, (3) never, and (4) don't know. The results are as follows:

Type of Television Program Recorded by VCR Owners			
(% of VCR owners)			
	Frequently	Sometime	
	%	%	
Public Affairs	4.7	22.8	
Documentaries	13.8	36.3	
Sports	14.1	25.9	
Feature films	35.4	35.9	
Music videos	10.7	19.0	
Sitcoms	19.3	28.0	
Drama series	22.2	35.8	
Variety shows	6.4	29.6	

8. Recording Frequency

It is critical to understand that, on this point, the questionnaire could not have delved into more specific detail: it is very likely that respondents would have resisted talking about the number of hours per month devoted to taping in any or all categories.

In other words, although intriguing, the data cannot be used to estimate the amount of hours recorded in Canada.

9. Renting Pre-Recorded Videos

(a) VCR Owners

In an average month, 1411 (98%) of the 1440 VCR owners rent 4.65 videos (Median: 3), or 55.8 a year (Median: 36). In other words, Canada's VCR owners, in a winter month, rent an estimated average total of

$$4.65 \times (6,770,000) \times (0.98) = 30,846,000 \text{ pre-recorded videos}$$

(b) VCR Renters

51 (2.4%) of the 2100 households that are not VCR owners, rented videos

$$2.98 \times (9,873,000) \times (0.0242) = 715,000 \text{ pre-recorded videos.}$$

Total: 31.5 million in a winter month.

10. Purchasing Pre-Recorded Videos

(a) VCR owners

If the survey results are applied to all of Canada, then in 1991, the 1395 survey households (96.9% of all VCR owners) purchasing an average of 2.06 videos, accounted for sales of 13.51 million units.

(b) VCR renters

In 1991, 54 VCR renters (2.57% of the survey population) averaged 0.67 purchases/household, for a Canada total of 170,000 units. Our estimate of 1991 Pre-Recorded Video Purchases: 13.7 million units.

11. Copying Material

141 (9.8%) of the 1440 VCR owners responded positively to the question of whether rented or borrowed material had ever been copied at home. Again, amounts (hours or number of tapes) could not be elicited.

Accordingly, the question is of no further use for estimating either the number of tapes, or the number of hours copied in Canada. Moreover, the question includes "rented" and "borrowed" tapes (What if the latter was material of a personal event recorded by the person from whom the tape was borrowed?).

12. Estimating the Size of the Household Video Market

(a) VCR Blank Tape Purchases

Survey respondents put the average retail price of a blank tape at \$5.72. Therefore, the estimated annual retail value of 42.8 million tapes in Canada suggests that households spent \$245 million on blank tape purchases in 1991.

(b) VCR Rental Value

Renting a VCR costs \$10/day, \$20 for a weekend. Estimated annual rentals in Canada of 6.8 million implies total household expenditure ranging between \$68 million and \$136 million.

(c) Renting Movies

The average movie rental fee in Canada is \$3.00, exclusive of taxes. Households in Canada rent an estimated 31.5 million pre-recorded videos in a typical winter month, or 378 million a year. Assuming a twenty percent reduction of this annual total to 315 million movie rentals caused by summer viewing habits, households in Canada spent between \$945 million and \$1,134 million on movie rentals.

(d) Summing Up

Total Value of Blank Video Tape Purchases, VCR Rentals and Movie Rentals (1991)

low	high
\$1,258 million	\$1,515 million

StatsCan's Household Expenditure Survey (65-555) shows that in 1990, the average urban household spent \$504 on "home entertainment equipment and services". Assuming that this spending pattern held true for the year 1991, and applied across Canada, the 9,873,000 Canadian households spent nearly \$5 billion. Approximately one-fifth of that expenditure was for home video entertainment, exclusive of VCR and camcorder purchases.

13. Problems in Estimating Copyright Losses

It seems that it is among VCR owners who occasionally rent that we would find the greatest amount of activity harmful to copyright holders. By "activity harmful to copyright owners" we mean the evasion of copyright payment. This might occur where the consumer tapes a rented or broadcast movie, and so denies the copyright holder of the opportunity of selling the prerecorded tape to the person who already has the tape in his video library. However, one has to make a number of assumptions about the practicality of collecting payment in order to derive estimates of economic loss. The problem in essence is that home video entertainment is not paid for principally by the legal transaction of sale.

In the case of the sound recording industry, the usual method of payment is purchase and sale, which results in fairly simple calculations of economic losses when purchase is avoided. In the case of video products, rentals, cable fees and advertizing sponsorship are the normal methods for paying for the product, and purchase and sale play a much lesser role in compensating rightsholders.

As regards time shifting, broadcasters encourage the habit so as to maintain their ratings with advertizers. Though solemn warnings are given during sportscasts about copying, time-shifted viewing exposes more viewers to the advertizers' messages.

Eight out of ten households engage in timeshifting. Since most timeshifted material is already paid for by advertizing, and no means exists to collect royalties from consumers directly from broadcast television, calculations of economic losses to rightsholders involve large assumptions which are easy to challenge. In sound recording, the home taper avoids a transaction of sale, whereas in videotaping the home taper does not avoid buying video entertainment, because the television and movie rental businesses are not set up that way.

It is possible to make some intelligent guesses about the number of rented movies that are taped annually. Most VCR's do not have double recording heads, unlike most audio tape recorders. Consequently, those who rent who also own a VCR, are almost certainly making tapes of movies. But at 5.2 million rentals in a year, and assuming 1 to 3 movies taped per occasion, we postulate a figure between 5.2 and 15.6 million rented movies taped annually.

We offer no survey-based justification for this assumption regarding the use to which rented VCR's are used by people who already own one; it seems a reasonable explanation in the absence of double-bay recorders. As such it represents the worst case for copyright holders. The occasional renters could be renting for other purposes, such as to watch bought tapes, homemade tapes, or to edit home tapes.

Calculating a loss of copyright revenues from home taping of movies is made difficult in that movie rental establishments are already paying prices for new releases of between \$50 and \$120, which presumably reflects a portion given over to royalties, and also because copyguards are being built in to movies. Copyguards make the picture strobe, go dark or light, or eliminate colour. One video retailer informed us that copyguards are now found in three-quarters of rented movies.

The absence of complaint from various levels of the video industry, the efficacy of preventive measures, the cost or inconvenience of copying movies, all suggest that copying problem has not yet reached the stage where the existing means of collecting royalties are proving inadequate.

This situation will change. It should be remembered that the television set is the last high-voltage cathode ray tube in the house, the last analog electronic device in a digital world. With the advent of digital transmission of television signals, this picture could rapidly change. As George Gilder said, "It is hard to imagine a more bloated and vulnerable technology than the analog TV".³ It seems reasonable to expect that digital technologies will cause the royalty payment structure in video products to undergo the same challenges as royalties have in audio products.

Endnotes to Chapter Three

1. National Video Home Recording Survey Final Report, February 1992, for Communications Canada, Gallup Canada Inc.

2. For purposes of estimating annual blank tape purchasing profiles, the owner category was further split into

- 1. VCR owners
- 2. owners who occasionally rent, and
- 3. VCR renters.

Annual Blank Tape Purchase/Household (1991)

	Owners	Owners Who Also Rent	Renters
Tapes	6.85	6.67	2.22

3. Microcosm, The Quantum Revolution in Economics and Technology, George Gilder, chapter 23, "The Death of Television" page 309 (Simon and Schuster, 1989)

Chapter Four

International Comparisons

Many European and other régimes have responded to the problem of copyright royalty losses by imposing a levy, based most often in copyright law, on audio and video recording devices and blank tape.

The charts in the following pages collate a number of sources of information regarding these régimes.

The principal variations concern

- a) copyright law or tax measure: The great majority have opted for copyright law and even those who have a tax régime are contemplating a switch to copyright law as the solution.
- b) pure royalty payment system or reservation of funds for collective purposes: Some countries use a portion of the funds collected for spending related to the arts. There is no pattern discernable in which countries do what.
- c) The rates: rates are usually expressed in cents of royalty per minute of tape. Levies on recording devices tend to be fixed fees.
- d) recipients: There is some variation among classes of people entitled to receive payments, depending upon whether the country in question recognizes what are called neighbouring rights in copyright law.
- e) How rates are set: There are large variations in how each country establishes the decision-making process for distributing the share of funds among rights holders.
- f) reciprocity: do foreign copyright holders benefit from the funds collected?

Unfortunately, some of the figures shown on the charts following are a few years old. Newer figures were not yet available from any source, though newer figures were expected soon. The International Federation of Phonograph Industries, located in London, England, keeps track of these developments around the world, and it is largely from their materials that these charts were derived.

Summary of Copyright Royalty Régimes
in European Countries
in 1990

Country	Status of Law
Austria	enacted 2 July, 1980

Targets of Funds Distributed

1. 51% social and collective purposes in which foreigners do not participate; 49% to national and foreign rights holders.
2. The latter include producers of audio and video products, authors, and performers.

Rate and Method of Calculation

devices	nil
audio tape	1.44 schillings per hour
video tape	2.70 schillings per hour

to be reduced by 5% in 1990

Gross Revenue

1988

Audio: AS 23,254,287 (\$US 1,771,080)

Video: AS 83,113,315 (US\$ 6,330,080)

Total: AS 106, 637,602 (\$US 8,101,112)

Note: Exchange rates are as at 13 March 1989 for gross revenues in this table.

Country	Status of Law
----------------	----------------------

Australia	revisions to Copyright Act, 1989 enacted
-----------	---

Targets of Distribution

1. Rights holders exclusively: producers of phonograms, authors/composers, performers
2. Rate will be set by Copyright Tribunal.
3. Home taping will become legal.
4. Royalties will be distributed to rights holders in countries with a similar royalty régime to Australia.

Rates and Methods of Collection

blank audio tape rate not yet decided
20 - 50 cents per tape per sixty minutes mentioned

Gross Revenue: not yet implemented

Country	Status of Law
----------------	----------------------

Finland	Copyright Act amendments, enacted 1984
---------	---

Targets of Funds Distributed

1. two-thirds for collective purposes, not available to foreigners
2. one third to rights holders, foreign authors are included if an agreement on reciprocity exists.

Rate and Method of Collection

devices	nil
audio	0.03 FIM (\$0.01) per minute
video	0.06 FIM (\$0.02) per minute

Gross Revenue

1987

Audio: FM 13,937,813 (\$US 3,198,946)

Video: FM 30,806,371 (\$US 7,070,513)

Total: FM 44,744,184 (\$US 10,269,478)

Country**Status of Law**

France

Copyright Act amendments,
enacted 1985**Targets of Funds Distributed**

administration societies of rights holders 75%

promotion and creation of live entertainment 25%

Rate and Method of Collection

devices -----

audio tape 0.025 FF (\$Cdn 0.32) per minute

video tape 0.0375 FF (\$Cdn 0.48) per minute

Gross Revenue

1988

Audio: FF 103,185,757 (\$US 16,313,954)

Video: FF 30,806,371 (\$US 7,070,513)

Total: FF 440,860,313 (\$US 63,377,125)

Country

Status of Law

Federal Republic of Germany

Copyright Act, enacted 1965
new regulations, 1985

Targets of Funds Distributed

domestic and foreign rights holders exclusively as a royalty

Rate and Method of Collection

devices

audio	2.50 DM (\$1.48)* per audio recording machine
video	18 DM (\$10.63) per video recording machine

audio tape 0.12 DM (\$Cdn 0.088) per hour of playing time

video tape 0.17 DM (\$Cdn 0.124) per hour of playing time

* dollar equivalents are given in U.S. figures obtaining in 1990

Gross Revenue 1987

Audio: DM 28,600,000 (\$US 15,318,693)

Video: DM 64,900,000 (\$US 34,761,650)

Total: DM 93,500,000 (\$US 50,080,343)

Country

Status of Law

Hungary

decree of 1982

Targets of Funds Distributed

1. Rights holders, no social programs.
2. authors, performers, producers audio/video

Rates and Methods of Collection

devices	nil
audio tape	8% of sale price
video tape	8% of sale price

Gross Revenue

Audio: FT 22,000,000 (\$US 405,400) Video: not applicable

Country

Status of Law

Iceland

Copyright Act amendments,
 enacted 30 May 1984
 effected 15 March 1985

Targets of Funds Distributed

1. 85% allocated to rights holders
2. 15% allocated to public funds for developing the publication of audio and video cassettes

Rate and Method of Collection

devices	4% of the price charged by importers
audio	24.50 IKr (\$0.38) per audio cassette
video	73.51 IKr (\$1.11) per video cassette

Gross Revenue: N/A

Country

Status of Law

Portugal

Copyright Act amendments,
 enacted 1985

Targets of Funds Distributed

1. Rights holders: authors, performers, producers audio/video
2. Foreign authors not entitled to receive

Rates and Method of Collection

rates not then determined (1991)
 to apply to devices and recording media

Country	Status of Law
Spain	Copyright Act amendments, enacted 1987 effected by decree 1989

Targets of Funds Distributed

1. 20% of monies are required to be used to train and encourage young performers.
2. 80% to authors, performers, producers audio/video

Rates and Methods of Collection

1. applies to devices and recording media
2. A Joint Commission had been set up to establish rates for various uses; decisions had not then been made (1990).
rates not decided

Gross Revenues: not implemented as of 1989

Country	Status of Law
Netherlands	Copyright Act amendments, enacted 1989 effected 1991

Targets of Distribution

1. 85% rights holders; 15% promotion of national audio and video productions.
2. audio: authors - 44%; phonogram producers and performing artists - 56%
3. video: film companies - 24.5%, phonogram producers (videoclips) - 14.5%; broadcasting organizations - 16.5%; performing artists - 22.5%; CISAC authors - 22.5%
4. No law yet on neighbouring rights

Rates and Methods of Collection

blank audio tape	\$0.16/ hour
blank video tape	\$0.215/hour

Gross Revenues: not available as of February 1992

Country**Status of Law**

Sweden

taxation, enacted 1982
effected 1984

replacement of tax with copyright royalty régime under consideration.

Targets of Distribution

1. Twenty percent is used for general cultural purposes; foreigners are excluded in practice in this distribution.
2. Distribution for the share of authors is made on an individual basis in the form of a supplement on performing and mechanical rights. No discrimination between foreign and national rights holders in this distribution.
3. only 2.4% collected in 1990 went to rights holders organizations, the rest went to government (3 out of 124 million SKr.)

Rates and Methods of Collection

devices	nil
audio tape	SKr 1.50 (\$US0.25) per cassette
video tape, blank and prerecorded	SKr 15. (\$US2.52) per cassette

Gross Revenues

1988

Total: SKr 124,000,000 (\$US 19,130,000)

Country	Status of Law
United States of America	"Audio Home Recording Act of 1991" bills H.R.3204 and S. 1623
The bills are proceeding without incident through the Congress.	

Targets of Distribution

1. Royalties distributed by Copyright Royalty Tribunal into two funds: one for persons who own or control the copyright in the musical work, and one for copyright owners in the sound recording.

Rates and Methods of Collection

1. Will apply to digital audio recording technologies only.
2. Recorders: 2% of the manufacturer's wholesale price, with an \$8 cap and a \$1 minimum, the cap is adjustable upwards after 5 years.
3. Tape: 3% of the manufacturer's wholesale price or customs value.
4. Digital audio recorders imported for sale or manufacture into U.S., except for professional models and digital recorders not generally used to record music (such as answering and dictating machines) must contain the Serial Copy Management System (SCMS) to prevent the making of digital copies of copies.

Tax based systems
(not based on Copyright)

Country	Status of Law
Denmark	taxation amendment, introduced 1982; abolished April 1987.

Rates and Methods of Collection

videotape only	30 DKr.(US \$4.42)
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Country	Status of Law
Norway	statute effected 1982

Targets of Distribution

1. 31.5% to rights holders, the rest to government.
2. Government decides each year what to hand over to rights holders collectives.
3. Rights holders include authors, performers, producers audio/video
4. Participation of foreigners is in fact precluded.

Rates and Methods of Collection

audio	NKr1.50 (\$US 0.22) per cassette
video	NKr 15 (\$US 2.16) per videocassette

Gross Revenues

1988

total: NKr 95,000,000 (\$US 13,690,000)

Sources:

1. "The Remuneration For Private Copying", by Taddeo Collovà, Révue Internationale du Droit d'Auteur, issue 149, July 1991
2. Private Copying, Legislation and Implementation with Guidelines for New Legislation, IFPI Secretariat, Table 1, by Michèle Hung, 7 November 1990
3. Copyright and Home Copying: Technology Challenges the Law, Office of Technology Assessment, U.S. Congress, Table 5-1, pages 132-135
4. "The Remuneration for Home Taping and the Principle of National Treatment", by Walter Dillenz in Copyright June 1990

Appendix

Sources of Information

Rights Holders Representatives

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A REPORT ON HOME TAPING OF AUDIO
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DEALING WITH HOME TAPING

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