

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date 1995-03-10

Citation Files 1991-13, 1992-PM/EM-1, 1994, 1995 1995

Regime Public Performance of Music
Copyright Act, Section 67.2

Members Michel Héту, Q.C.
Dr. Judith Alexander
Mr. Andrew E. Fenus

Statement of Royalties to be collected for the performance or communication by telecommunication, in Canada, of musical or dramatico-musical works in 1992, 1993, 1994 and 1995

Reasons for decision

FOR THE YEARS 1992 TO 1995:

- 13.B Passenger Ships
- 13.C Railroad Trains, Buses and Other Public Conveyances, Excluding Aircraft and Passenger Ships

FOR THE YEAR 1994:

- 1.A Commercial Radio

FOR THE YEARS 1994 AND 1995:

- 2.B. TVOntario
- 2.C Radio-Québec
- 15.A Background Music

FOR THE YEAR 1995:

1.B	Non-commercial Radio
5.A	Exhibitions and Fairs
7	Skating Rinks
8	Receptions, Conventions, Assemblies and Fashion Shows
9	Sports Events
10	Parks, Streets and Other Public Areas
11	Circuses, Ice Shows, Comedy Shows and Magic Shows
12	Ontario Place Corporation, Canada's Wonderland and Similar Operations
13.A	Aircraft
15.B	Music on Hold
18	Recorded Music for Dancing
19	Fitness Activities
20	Karaoke Bars and Similar Premises
21	Recreational Facilities Operated by a Municipality, School, College or University

I. GENERAL INTRODUCTION

Pursuant to section 67 of the *Copyright Act*, the Society of Composers, Authors and Publishers of Music of Canada (SOCAN) filed with the Board a statement of proposed royalties for the public performance, or the communication to the public by telecommunication in 1995, in Canada, of musical or dramatico-musical works. Similar filings were made for the years 1992 to 1994.

The statement was published in the *Canada Gazette* on September 24, 1994. At the same time, the Board gave notice to users of their right to file objections to the proposed tariff no later than October 22, 1994. Statements filed for 1992 to 1994 had been published in a similar fashion.

The following gives reasons for Tariffs 13.B. and 13.C (for 1992 to 1995), Tariff 1.A (for 1994), Tariffs 2.B, 2.C and 15.A (for 1994 and 1995) as well as Tariffs 1.B, 5.A, 7 to 12, 13.A, 15.B and 18 to 21 (for 1995). The other tariffs will be disposed of later.

II. TARIFF WORDING

As was done in previous decisions, modifications have been made to the wording of tariffs certified in this decision. Again, these changes do not alter the substance of the tariffs but aim at making them more accessible to the public.

TARIFF 1.A (Commercial Radio)

Objections to this tariff for 1994 were filed by the Canadian Association of Broadcasters (CAB), Standard Radio, Westcom Radio Group and CFMX. All now agree with SOCAN that the rate for 1994 should be set at the same level as for 1993. The Board certifies Tariff 1.A accordingly.

TARIFF 2.B (TVOntario);

AND

TARIFF 2.C (Radio-Québec)

These tariffs, as proposed for 1994 and 1995, were identical to those certified for 1993. Objections filed by TVOntario and *Radio-Québec* were later withdrawn. The Board certifies the tariffs as filed.

TARIFF 9 (Sports Events);

TARIFF 12 (Ontario Place Corporation, Canada's Wonderland and Similar Operations);

AND

TARIFF 18 (Recorded Music for Dancing)

These tariffs reflect agreements reached by SOCAN with various users or associations representing users under these tariffs. They are certified so as to reflect the substance of the agreements.

TARIFF 1.B (Non-Commercial Radio);

TARIFF 5.A (Exhibitions and Fairs);

TARIFF 7 (Skating Rinks);

TARIFF 8 (Receptions, Conventions, Assemblies and Fashion Shows);

TARIFF 10 (Parks, Streets and Other Public Areas);

TARIFF 11 (Circuses, Ice Shows, Comedy Shows and Magic Shows);

TARIFF 13.A (Aircraft);

TARIFF 15.B (Music on Hold);

TARIFF 20 (Karaoke Bars and Similar Premises);

AND

TARIFF 21 (Recreational Facilities Operated by a Municipality, School, College or University)

These proposed tariffs were identical to those certified for 1994. No objections were filed. The Board certifies these tariffs for 1995 so as to reflect the statement filed by SOCAN.

TARIFF 13.B (Passenger Ships);

AND

TARIFF 13.C (Railroad Trains, Buses and Other Public Conveyances, Excluding Aircraft and Passenger Ships)

Litigation involving the extent of the Board's powers have resulted in considerable delays in the adoption of these tariffs. No objections were filed to these tariffs even though the proposed changes to the passenger ships tariff result in significant increases in the rates.

The Board certifies Tariffs 13.B and 13.C so as to reflect the statements filed by SOCAN. The Board certifies the minimum tariff at \$60 for 1992, as proposed. This minimum is maintained for subsequent years, in accord with the Board's formula for accounting for inflation.

TARIFF 15.A (Background Music)

The Motion Picture Theatre Associations of Canada (MPTAC) objected to this tariff in 1994. It took issue with the requirement to pay royalties under both Tariffs 6 and 15.A. Under an agreement filed with the Board relating to Tariff 6, SOCAN would not ask for payment from cinemas under Tariff 15.A. This agreement is still being examined by the Board. However, MPTAC advised the Board that it would not object to Tariff 15.A being certified if it were made clear that the tariff did not apply to cinemas.

The Board agrees that cinemas should not be required to pay under both Tariffs 6 and 15.A. However, it finds that it would be more appropriate to ensure this by adding words to that effect in Tariff 6, rather than in Tariff 15.A. This will be done in due course.

In its proposed statement for 1994, SOCAN had asked for some increases in the prices set for this tariff. Heeding the Board's formula for accounting for inflation, SOCAN asked that the rates approved for 1993 be confirmed for 1995 (and, presumably, for 1994). The Board certifies Tariff 15.A accordingly.

TARIFF 19 (Fitness Activities)

In its proposed statement for 1995, SOCAN asks that the rate for this tariff be the same as in 1994,

but proposes that the minimum fee be reduced from \$128 to \$64. The Board is satisfied with the explanations offered by SOCAN for this reduction and certifies Tariff 19 so as to reflect the statement filed by SOCAN.

TARIFF 17.A.2 (Transmission of Non-Broadcast Services - Radio)

On February 22, 1995, SOCAN withdrew this tariff for 1994. The tariff for 1995 will be held in abeyance for the time being.

A handwritten signature in black ink that reads "Claude Majeau". The signature is written in a cursive, flowing style.

Claude Majeau
Secretary to the Board