

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date 2003-05-09

Citation FILE: Reproduction of Musical Works 2001-2005

Regime Reproduction of Musical Works
Copyright Act, subsection 70.15(1)

Members Mr. Justice John H. Gomery
Mrs. Sylvie Charron
Ms. Brigitte Doucet

**Statement of Royalties to be collected by SODRAC for the reproduction of musical works,
in Canada, by community radio stations in 2001, 2002, 2003, 2004 and 2005**

Reasons for decision

Pursuant to subsection 70.13(1) of the *Copyright Act*, SODRAC filed on March 26, 1999 its proposed Tariff No. 3 for the reproduction of musical works in Canada by a radio station other than *Radio-Canada* and the Canadian Broadcasting Corporation for the years 2000 to 2002. The proposed tariff, published in the *Canada Gazette* on May 29, 1999, included two components. Tariff 3.A related to royalties to be paid by commercial radio stations, and Tariff 3.B to royalties to be paid by non-commercial radio stations.

For reasons of commodity, SODRAC subsequently divided its proposed tariff into two parts, one for commercial radio stations, the other for non-commercial stations. The former was combined for examination purposes with the proposed reproduction tariff of the Canadian Musical Reproduction Rights Agency (CMRRA) for commercial radio stations. The combined tariff was the subject of a Board decision dated March 28, 2003.

The part of the proposed tariff dealing with non-commercial stations applied to all not-for-profit stations, including community stations, as well as campus stations affiliated with a post-secondary educational institution, native stations, and religious stations. SODRAC sought royalties of \$50 per month from French-language and ethnic-language stations and \$10 per month from all other stations.

Three associations objected to SODRAC's tariff for non-commercial stations: the *Association des radiodiffuseurs communautaires du Québec* (ARCQ), the *Alliance des radios communautaires du Canada* (ARCC), and the National Campus and Community Radio Association (NCRA).

Discussions between SODRAC and these associations led to an agreement with ARCQ and ARCC. The agreement provides that each community station will pay \$250 a year for a licence to reproduce works included in the SODRAC repertoire and to use the copies resulting from such reproduction for broadcasting purposes.

On March 27, 2002, SODRAC filed with the Board an amended proposed tariff for the years 2000 to 2002 that reflects its agreement with the two associations. The amended proposed tariff applies only to stations licensed by the Canadian Radio-television and Telecommunications Commission (CRTC) as community radio stations pursuant to the *Broadcasting Act* except those licensed to operate in English. As a result, members of the NCRA are no longer targeted by the proposed tariff.

On the same date, SODRAC filed with the Board a new proposed Tariff 3.B for the years 2003 to 2005. This tariff, published in the *Canada Gazette* on May 11, 2002, is identical to the amended proposed tariff for 2000 to 2002. Only NCRA objected to the proposed tariff for 2003 to 2005. NCRA withdrew its objection after receiving assurances from SODRAC that the proposed tariff for 2003 to 2005 does not apply to community stations licensed to operate in the English language.

In view of the foregoing, the Board certifies as proposed the amended tariff for the years 2000 to 2002, and the proposed tariff for the years 2003 to 2005 as filed by SODRAC. The Board takes note of the fact that SODRAC advised the associations of its intention to waive the royalties payable under this tariff for the year 2000. Consequently, the certified tariff covers the period from January 1, 2001 to December 31, 2005.

The tariff certified by the Board applies to all community radio stations other than those operating in the English language, irrespective of whether or not they are members of the ARCQ or the ARCC. The two associations represent the vast majority of community stations. Stations that are not members of either association did not object to either proposal filed by SODRAC.



Claude Majeau
Secretary General