

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

**Date** 2012-05-25

**Citation** File: Public Performance of Sound Recordings

**Regime** Collective Administration of Performing Rights and of Communication Rights  
*Copyright Act*, subsection 68(3)

**Members** Mr. Justice William J. Vancise  
Mr. Claude Majeau  
Mrs. Jacinthe Thériberge

**Proposed Tariffs Considered** Re:Sound Tariff 5 – Use of Music to Accompany Live Events, 2008-2012 (Parts A to G)

**Statement of Royalties to be collected by SODRAC for the reproduction, in Canada, of musical works embodied into cinematographic works for the purposes of distribution of copies of the cinematographic works for private use or of theatrical exhibition for the years 2009 to 2012**

**Reasons for decision**

**I. INTRODUCTION**

[1] The use of recorded music is popular at sporting events, concert performances, festivals and fairs, parades, circuses and many other types of public entertainment. Authors of this music have been paid royalties for decades; performers and makers of sound recordings have yet to receive any compensation in this respect.

[2] On March 30, 2007, Re:Sound Music Licensing Company (Re:Sound, formerly the Neighbouring Rights Collective of Canada) filed, pursuant to section 67.1 of the *Copyright Act* (the “*Act*”)<sup>1</sup> proposed Tariff 5 for the years 2008 through 2012, entitled “Use of Music to Accompany Live Events”. The proposed tariff was published in the *Canada Gazette* on June 2,

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<sup>1</sup> R.S.C. 1985, c. C-42.

2007. Prospective users and their representatives were informed of their right to object by August 1, 2007.

[3] Only the Hotel Association of Canada (HAC) filed a timely objection. In the Spring of 2008, the organizations named in Table 1 of the Appendix applied for leave to intervene in the proceedings. On February 4, 2009, the Board asked HAC and the applicants to confirm their continued participation. HAC and 22 applicants did so. On March 20, 2009, these applicants were granted leave to intervene with full participatory rights. Parties can be regrouped as follows, for convenience:

- Arts Objectors: CAPACOA, Halls, NAC, PACT, *Place des Arts* and Sony Centre;
- Festivals Objectors: CAFE, FEO, OFN and WRAD;
- Hospitality Objectors: ABLE BC, BCRFA, CRFA, HAC and VHA; and
- Sports Objectors: Capital, CFL, Gillett, Jays, MLSE, NHL, NFL and Rogers Centre.

[4] Applicants who did not respond were deemed to have withdrawn their application.

[5] On March 20, 2009, the Board also asked to be apprised of the progress of tariff negotiations by May 1, 2009. Re:Sound supplied further updates on September 4 and November 30, 2009 and on March 1, 2010. Each time, Re:Sound stated it was negotiating with the objectors and proposed a new deadline for the subsequent update.

[6] On June 15, 2010, Re:Sound informed the Board that it had settled with the Festivals and Hospitality Objectors and requested that the Board certify the relevant portions of the tariff. Re:Sound submitted a new, significantly restructured text of the proposed tariff (the “June 2010 text”), consisting of General Provisions and Parts A through G, targeting:

- A: recorded music accompanying live entertainment in cabarets, cafes, clubs, restaurants, roadhouses, taverns and similar establishments;
- B: receptions, conventions, assemblies and fashion shows;
- C: karaoke bars and similar establishments;
- D: festivals, exhibitions and fairs;
- E: circuses, ice shows, fireworks displays, sound and light shows and similar events;
- F: parades; and
- G: parks, streets and other public areas.

[7] Re:Sound also informed the Board that it continued to negotiate with the Arts and Sports Objectors. It anticipated that these negotiations would result in new categories covering the performance of sound recordings at sporting events, at concerts, at comedy and magic shows and as part of a theatrical or dance performance. Re:Sound requested that the Board certify the General Provisions and Parts A through G based on the agreements as soon as possible.

[8] On January 26, 2011, the Board requested further information from Re:Sound about the June 2010 text. On May 6, 2011, Re:Sound supplied the information requested and proposed a new text (the “May 2011 text”) for the tariff.

[9] On June 1, 2011, the Board asked objectors to comment on the May 2011 text. CAPACOA, CRFA, HAC and the Sports Objectors did so. On July 4, Re:Sound responded and supplied new text for some sections.<sup>2</sup> The Sports Objectors were asked to clarify some of their comments. Clarifications were received on October 28. Re:Sound responded on November 4 and the Sports Objectors replied on November 8. With this, the record of the proceedings was perfected. The matter proceeded without a hearing.

## **II. SHOULD THIS MATTER PROCEED ON THE BASIS OF THE AGREEMENTS?**

[10] Before certifying a tariff based on agreements, it is generally advisable to consider (a) the extent to which the parties to the agreements can represent the interests of all prospective users and (b) whether relevant comments or arguments made by former parties and non-parties have been addressed. These are not hard and fast rules: prospective users who did not file a timely objection no longer have a right to air their views before the Board. Yet because tariffs are both prospective and of general application, some account must be taken of the interests of those who are not before us and who will be affected by our decision, especially with tariffs of first impression. This is why subsection 68(1) of the *Act* allowed the Board to raise objections of its own. This is also why we allowed the objectors to intervene as late in the day as we did.

[11] Parts A to C were agreed to by the Hospitality Objectors. CRFA represents users in Parts A and C; HAC represents users in Part B. CRFA represents more than 30,000 enterprises from every sector of the foodservices industry, from small to very large. HAC represents over 90 per cent of Canadian hotels.<sup>3</sup> It is therefore safe to assume that CRFA and HAC speak for a vast array of users of Parts A to C of the tariff.

[12] Parts D to G were agreed to by the Festivals Objectors. CAFE represents mostly fairs and exhibitions, targeted by Part D. According to Re:Sound, these and other Festival Objectors also run a wide variety of events targeted in the other parts of the tariff. They should be able to represent the interests of users of Parts D to G of the tariff.

[13] Having reviewed the comments and arguments offered by former parties and non-parties, we conclude that all issues relevant to these proceedings have been addressed. Nine of the ten former parties are members of one of the Festival Objectors. The tenth, NAITSA, was asking

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<sup>2</sup> However, since Re:Sound did not supply then new text for the entire tariff, the last full text is the May 2011 text.

<sup>3</sup> HAC represents 8,000 members. There are 8,486 hotel properties in Canada: [http://www.hotelassociation.ca/forms/Hotel %20Industry%20Facts%20Sheet.pdf](http://www.hotelassociation.ca/forms/Hotel%20Industry%20Facts%20Sheet.pdf)

that not-for-profit organizations pay less than for-profit corporations. The tariff we certify is largely revenue based and sets relatively low minimum fees. This is sufficient to alleviate NAITSA's concerns.

[14] The Sports and Arts Objectors are still negotiating with Re:Sound over other parts of the tariff. Whether they will be subject to the General Provisions we certify today need not occupy us. These provisions can be adjusted in due course, if need be. Otherwise, the Sports and Arts Objectors' interest in Parts A to G is limited to whether Tariff 5.E or Tariff 3 should apply to users mentioned in Part E who only use background music, and whether Re:Sound should be allowed to share information collected pursuant to the tariff with SOCAN. We deal with both issues later on.

[15] Two comments received from non parties merit consideration. One concerns the difficulty of estimating attendance at a fair in advance. The June 2010 text deals with the issue: if attendance cannot be estimated, the user is to pay based on actual attendance within 30 days of the closing of the event. The other comment focuses on the different rate bases in the equivalent SOCAN tariffs. The June 2010 text harmonized the rate bases, making the comment moot.

### **III. ANALYSIS OF THE JUNE 2010 TEXT – QUESTIONS TO RE:SOUND AND RESPONSES**

[16] During these proceedings, we addressed questions to the parties. In this part, we review some of the issues raised by us or by the parties concerning the structure and content of the proposed tariff. Tariff wording issues are addressed in the next part.

#### **A. RELATIONSHIP WITH SOCAN TARIFFS – TEXT**

[17] The June 2010 text closely resembles its SOCAN counterparts, identified in Table 2 of the Appendix. This is normal, as existing SOCAN tariffs were used as comparables in reaching the agreements under review.

[18] Some differences exist. Certain are the result of parties' choices. For example, the term "integral" in the phrase "an integral part of live entertainment" (SOCAN Tariff 3.B) is omitted in Part A to avoid disputes over what is integral and what is not. Weddings and video game events are specifically mentioned in Part B, though the scope of SOCAN Tariff 8 and Part B remain the same; these examples simply provide greater clarity. Other differences reflect the fact that SOCAN is entitled to collect royalties for live performances (marching bands, busking musicians) while Re:Sound is not. Since the differences between the proposed tariff and the SOCAN comparables are either not substantial or necessary, we see no reason to diverge substantially from the text proposed by Re:Sound.

## **B. RELATIONSHIP WITH SOCAN TARIFFS – AMOUNTS**

[19] Board staff prepared Table 3 of the Appendix to determine the royalty ratios between Re:Sound's proposed tariff and the SOCAN comparables. The Board then asked Re:Sound to explain the differences in ratios, especially whether these differences may reflect variations in repertoire use. The Board also asked why, in Part D, the ratios varied up and down between 50 per cent and 84 per cent, depending on the attendance at the fair.

[20] Re:Sound explained that ratio variations represented the overall compromise reached by Re:Sound and the respective objectors, in order to settle the tariffs without going to a hearing. Factors taken into account included differences in the rights represented by the two collectives and the fact that the SOCAN rates have not been reviewed for some time. Adjustments are consistent with repertoire adjustments made in other tariffs certified by the Board. For example, the rates for Part D are the average of 50 per cent of the royalties payable under SOCAN Tariff 5.A and Re:Sound Tariff 3. This averaging takes into account the fact that Part D targets both foreground and background music.

[21] We agree with this approach.

## **C. RELATIONSHIP WITH SOCAN TARIFFS – MINIMUM FEES**

[22] Those who pay minimum fees are typically small users who are underrepresented at Board hearings. We therefore asked Re:Sound to justify its minimum fees, both as to their amount and with respect to the Board's three principles of internal coherence, horizontal harmonization and the availability of an annual licence.<sup>4</sup>

[23] According to Re:Sound, the parties agreed that any repertoire adjustment to minimum fees should be less than the adjustment to the royalty rate. Minimum fees are intended in part to allow a collective to recover a portion of their administrative costs. Repertoire size has no bearing on these costs. Re:Sound's position is that its minimum fees should be at least equal to those payable to SOCAN. Re:Sound's acceptance of some adjustment to the minimum fee reflects the compromise reached between it and the objectors.

[24] The Board is generally concerned with internal tariff coherence when more than half of users pay the minimum fee or when too few qualify for the minimum. Re:Sound noted that since these are inaugural tariffs, it is impossible to determine how many users will pay the minimum fee. Re:Sound proposed that the issue be revisited when the required data become available.

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<sup>4</sup> *Various SOCAN Tariffs* (19 March 2004) Copyright Board [Decision](#) at 13-15.

[25] With respect to horizontal harmonization, Re:Sound contends that it is achieved by certifying the minimum fees for Re:Sound as proposed by the parties, which are the same or close to the comparable SOCAN tariffs.

[26] With respect to an annual licence, Re:Sound notes that the proposed minimums align with their SOCAN comparables, which do not all provide for an annual minimum fee.

[27] The statement at paragraph 25 is at least incomplete. To the extent it relates to Parts A, E and F, it is true: two of the three minimums are the same as for SOCAN. However, in other parts of the proposed tariff, the lowest amount is in effect a minimum price, even though it is not expressed as such. These amounts apparently reflect a full repertoire discount. Nevertheless, based on the record, we conclude that the fees proposed adhere to the principles outlined in paragraph 22.

#### **IV. WORDING OF THE TARIFF**

[28] Our starting point is the May 2011 text, at least in part because that text responded to issues we raised in our questions to Re:Sound.

##### **A. COMPENSATION IN KIND**

[29] Part A concerns the use of recorded music to accompany live entertainment in clubs, restaurants and similar establishments. Its SOCAN comparable, Tariff 3.B, expressly deals with compensation in kind. The June 2010 text does not.

[30] Questioned by the Board, Re:Sound explained that this was not an omission; in its view, compensation in kind was always included. The intent behind the different wording was to remove the reference to “licensee”: those who use Re:Sound’s repertoire are not licensees, since Re:Sound collects equitable remuneration, not royalties. Still, Re:Sound suggested a few alternative wordings that included an express reference to compensation in kind.

[31] HAC opposed the inclusion of compensation in kind in the rate base, arguing that this was not part of the agreement, would add significant costs and would increase administrative burdens. We disagree. There is no need to debate whether this was touched upon during the negotiations: the intent throughout was to dovetail Re:Sound tariffs with SOCAN’s. It is doubtful that the increased costs will be high: otherwise, the issue would have surfaced some time ago. Finally, the administrative burden of dealing with harmonized rate bases is less, not more.

[32] The definition of “compensation for entertainment” in Re:Sound Tariff 5.A will be harmonized with the equivalent definition in SOCAN Tariff 3.B.

## **B. ROYALTIES FOR BACKGROUND MUSIC**

[33] Part A (Recorded music accompanying live entertainment in cabarets, cafes, clubs, restaurants, roadhouses, taverns and similar establishments) as proposed would apply only to the use of sound recordings as foreground music: royalties for background uses are subject to Re:Sound Tariff 3. Part E (Circuses, ice shows, fireworks displays, sound and light shows and similar events) would apply to all uses of music during such an event. The Arts Objectors object to the fact that Part E applies to all uses of recorded music, whether foreground or background. This, according to them, leads to a background music royalty incorrectly based on ticket sales for the performance.

[34] The May 2011 text proposed that Part E target both foreground and background uses of recorded music for the first time. The reason to do so in Part E but not Part A is straightforward. If a bar plays background music throughout the week and has a one-hour live act that makes use of recorded music each week, there is nothing awkward about its paying under both Tariffs 3 and 5.A. Part E, on the other hand, applies to certain types of live events. In that instance, it seems much more difficult to segregate the foreground and background uses of recorded music.

[35] We find it hard to believe that an event targeted in Part E may use only background music. Yet we wish to be clear: Re:Sound Tariff 5 is a foreground music tariff, and no event at which only background music is used should be subject to it. This may not be evident from subsection 3(2) of Tariff 3, which provides that the tariff does not apply to music used “at live events”. We have adjusted the wording of Tariff 5 accordingly. Eventually, the wording of Tariff 3 also should be adjusted to reflect our decision.

## **C. SHARING INFORMATION WITH SOCAN**

[36] Re:Sound must treat in confidence information received pursuant to any tariff.<sup>5</sup> Information can be shared with certain persons, such as the Board and, in tariffs involving at least another collective (“joint tariffs”), with the other collectives. Re:Sound wishes to facilitate tariff administration through initiatives such as joint invoicing and auditing. With this in mind, it asks that it be allowed to share information with SOCAN, even though this is not a joint tariff.

[37] The Sports Objectors oppose this for the following reasons. First, it is presumptively prejudicial to allow collectives to share user information with other collectives. Second, since SOCAN and Re:Sound will operate under separate tariffs, SOCAN will be an unrelated third party; as such it will not be bound to keep the information confidential. Third, allowing disclosure would be contrary to general legal principles relating to the protection of information produced under legal compulsion. These principles apply not only to adversarial proceedings, but

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<sup>5</sup> CBC’s tariff is the sole exception, for reasons that need not be stated here.

also to more administrative contexts such as collection of information by government institutions. Fourth, allowing disclosure would circumvent the *Access to Information Act* (“*ATIA*”)<sup>6</sup>: what the Board itself may not disclose cannot be disclosed indirectly by authorizing Re:Sound to do so. Fifth, disclosure would interfere with future negotiations between objectors and collectives.

[38] Re:Sound responds as follows. First, all other objectors agree with the provision. Second, the fact that the SOCAN and Re:Sound tariffs are not joint is irrelevant: the reasons for allowing information sharing (ease of administration, minimizing users’ audit burden) apply equally here. Third, the information Re:Sound would be allowed to share is precisely that to which SOCAN is already entitled under its tariff; there is no prejudice to licensees that accurately report to both collectives. Fourth, confidential contractual arrangements would not be disclosed, as they would not constitute information received pursuant to the tariff.

[39] To help alleviate the Sports Objectors’ concerns, Re:Sound suggests specifying that information can be shared with SOCAN only in connection with the collection of royalties and the enforcement of the tariff, possibly with the added proviso that SOCAN must agree to treat shared information in confidence. In the alternative, Re:Sound proposes that information sharing of information not be allowed pursuant to Part E, the only part of Tariff 5 addressed in this decision in which the Sports Objectors have an interest.

[40] Many Board tariffs force or allow collectives to share information among themselves. Retransmission collectives have been required to share audit reports since the beginning, so as to avoid the disruptions caused by multiple audits.<sup>7</sup> Sharing of confidential information is not limited to collectives targeted in joint tariffs. Retransmission collectives are allowed to share confidential information “with any other collective society”.<sup>8</sup> Also, to the extent necessary to effect royalty distributions, CPCC is entitled to share information with its member collectives<sup>9</sup> and Re:Sound is allowed to share information with other royalty claimants, including foreign collectives.<sup>10</sup>

[41] We remain convinced that as a rule, sharing information among collectives dealing with the same clients, and using the same rate base, is both efficient and desirable. The Sports Objectors did not provide any evidence or argument that might lead us to disallow such information sharing in this instance.

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<sup>6</sup> R.S.C. 1985, c. A-1.

<sup>7</sup> *Retransmission of Distant Radio and Television Signals for the Years 1990 and 1991* (2 October 1990) Copyright Board [Decision](#) at 73.

<sup>8</sup> *Television Retransmission Tariff, 2004-2008*, s. 29(2)(a).

<sup>9</sup> *Private Copying Tariff, 2011*, s. 10(2)(iv).

<sup>10</sup> Re:Sound [Tariff 6.A](#) (Use of Recorded Music to Accompany Dance), s. 6(2)(c).



[42] First, we fail to see how or why information sharing among collectives could be prejudicial to Tariff 5 users in general, and to the Sports Objectors as users targeted in Part E in particular. Users are required to supply SOCAN and Re:Sound with the same information. Allowing this information to be provided once instead of twice is presumptively beneficial to users. The Sports Objectors failed to provide convincing evidence or arguments to the contrary.

[43] Second, the fact that SOCAN and Re:Sound will operate under separate tariffs cannot dispose of the issue. SOCAN will only get what it is already entitled to. Whether a user provides the information directly to both collectives or to one through the other seems irrelevant. Any apparent, legitimate misgivings on the part of the Sports Objectors can be addressed through proper tariff wording, as suggested by Re:Sound.

[44] Third, legal principles on which the Sports Objectors seek to rely do not apply here. Decisions holding that information produced under compulsion of law in an action can be used for the purposes of that action only<sup>11</sup> concern pre-trial discovery in the context of some form of adversarial process. Relationships under a tariff are no more litigation than those under a licence.

[45] The rules governing pre-trial discovery are not the same as those governing dealings in user information obtained pursuant to a tariff. For instance, the implied undertaking applies to non-confidential information; obviously, tariff rules dealing with confidentiality do not. The reason for such differences is obvious: the justifications behind each set of rules are not the same. In pre-trial discovery, candid disclosure largely depends on the cooperation of a party adverse in interest. Audit rights ensure that cooperation in the context of enforcing a tariff.

[46] The *ATIA* is just as unrelated to the question at hand as the law governing pre-trial discovery. The fact that the Board must comply with the *ATIA* does not mean that it must reflect its provisions in the tariffs it certifies as decision-maker.

[47] Generally speaking, Board approved tariffs are substitutes to market negotiated licences. The Board sets tariff terms and conditions. Clauses requiring users to provide information to copyright holders is a common occurrence in licences and tariffs; they are necessary to ensure the efficient operation of licences and tariffs. Clauses that allow collectives to share user information are just as necessary to the efficient operation of linked tariffs.

[48] Finally, fears that disclosure would interfere with future negotiations, to the extent they may be relevant, are misplaced. The only information that the confidentiality provision as proposed by Re:Sound would allow to be shared is that which is collected pursuant to the tariff. Neither information supplied during negotiations nor any agreement that may result from such

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<sup>11</sup> *Lac d'Amiante du Québec Ltée v. 28580702 Québec Inc.*, [2001] 2 S.C.R. 743; *Juman v. Doucette*, 2008 SCC 8, [2008] 1 S.C.R. 157.

negotiations, is information collected pursuant to the tariff. There remains the possibility that a user acting pursuant to an agreement with SOCAN may wish that SOCAN not have access to information Re:Sound collects pursuant to its tariff; that scenario is best addressed not in a tariff, but in the agreement between the user and SOCAN.

[49] There only remains the concern that while Re:Sound may be allowed to share information with SOCAN, the reverse may not be true. While this is an issue that ought to be addressed as soon as possible, it is not one that should justify postponing our decision.

[50] Several collectives are currently exploring opportunities to create a more integrated approach to the management of copyrights.<sup>12</sup> We allow information sharing between collectives within joint tariffs. The tariffs should be designed so as to facilitate their administration. Collectives are largely engaged in the same business with the same users. Users generally benefit from such information sharing: no one is interested in being audited repeatedly by multiple collectives in the same year. For these reasons, information sharing between collectives should be encouraged, whether or not they operate pursuant to joint tariffs.

[51] The Sports Objectors argued that this was an issue requiring a full hearing. We disagree. The record amply suffices to dispose of it. The Sports Objectors remain free to re-visit the issue when the Board will dispose of other tariff Parts in which they are interested.

[52] Consequently, the tariff will provide that Re:Sound may share with SOCAN information collected pursuant to the tariff, in connection with the collection of royalties and the enforcement of a tariff.

#### **D. ADJUSTMENT OF ERRORS**

[53] Once again, Re:Sound asked that it be allowed to collect royalty underpayments indefinitely, but that users may no longer ask a refund for overpayments after 12 months. Existing tariffs provide no such time limit: normal limitation rules are allowed to play.

[54] We recently dealt with a similar request in our most recent decision relating to commercial radio:

According to these collectives, it is up to the station to discover an overpayment since the information required to establish this always is in the hands of the broadcasters. It would be unsustainable to have to pay back royalties which have already been distributed. In contrast, any limitation for underpayments could incite broadcasters to misstate their revenues, thereby enhancing the need for auditing and other inefficiencies. We agree with the last point but not

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<sup>12</sup> CMRRA, SOCAN, SODRAC Exploring Integrated Approach to Music Rights Management: <http://cnw.ca/nB46>

with the others. No existing tariff provides for such a time limit. Normal limitation time periods should suffice to minimize disruptions in the collectives' internal operations.<sup>13</sup>

[55] Re:Sound has offered no convincing additional justification for such an asymmetry. The fact that Re:Sound and the Objectors have agreed to the provision is not reason enough to abandon past practices in this respect. The timelines for dealing with errors in payment shall remain the same.

## **V. THE TARIFF**

[56] The rates we certify are summarized in table 4 of the Appendix.

[57] As can be found in Table 5 of the Appendix, the total amount of royalties generated by the certified Parts of the tariff for 2008 is estimated to be about \$1.8 million. The estimation is based on the data routinely filed with the Board by SOCAN and the relationship between the Re:Sound Tariff and the various SOCAN Tariffs displayed in Table 3.

[58] As the Board explained in its recent CBC Radio decision, "the practice of using interest factors should be generalized."<sup>14</sup> We include interest factors in the tariff to account for retroactive payments.

[59] The wording of the tariff essentially tracks what the parties had agreed upon. The changes or adjustments we alluded to earlier on are reflected in the final wording. Further stylistic adjustments were made that do not warrant further comment. Only the following need be added.

[60] Section 4 of the general provisions specifies that unpaid royalties owed pursuant to an audit are paid at the same time as the cost of the audit. Generally, payment adjustments following the discovery of an error are made at the same time as the next payment. In a tariff where so many royalties are payable only once a year, this would entail delays that are simply too long.

[61] Re:Sound asked that interest be payable for royalties not paid by the due date but not for overpayments. We see no reason to provide differently in this than in other tariffs.

[62] All application provisions were adjusted to align with those found in existing Re:Sound tariffs.

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<sup>13</sup> *Commercial Radio Tariff* (SOCAN: 2008-2010; Re:Sound: 2008-2011; CSI: 2008-2012; AVLA/SOPROQ: 2008-2011; ArtistI: 2009-2011) (9 July 2010) Copyright Board [Decision](#) at para. 332.

<sup>14</sup> *SOCAN-Re:Sound CBC Radio Tariff, 2006-2011* (8 July 2011) Copyright Board [Decision](#) at para. 131.



Gilles McDougall  
Secretary General

## APPENDIX

### TABLE 1 – List of Applicants

Alliance of Beverage Licensees of British Columbia	(ABLE BC)
British Columbia Restaurant and Foodservices Association	(BCRFA)
Calgary Folk Music Festival	(CFMF)
Canadian Arts Presenting Association	(CAPACOA)
Canadian Association of Festivals and Exhibitions	(CAFE)
Canadian Football League	(CFL)
Canadian Restaurant and Foodservices Association	(CRFA)
Cape Breton Federation of Agriculture	(CBFA)
Capital Sports	(Capital)
Comox Valley Exhibition Association – Fall Fair	(CVEA)
Festivals and Events Ontario	(FEO)
Gillett Group	(Gillett)
Maple Leaf Sports and Entertainment	(MLSE)
Moore Agricultural Society	(MAS)
National Arts Centre	(NAC)
National Football League	(NFL)
National Hockey League and its Canadian Member Clubs	(NHL)
Northern Alberta Institute of Technology Students' Association	(NAITSA)
Ottawa Festivals Networks	(OFN)
<i>Place des Arts</i>	
Prince Edward County Agricultural Society	(PECAS)
Professional Association of Canadian Theatre	(PACT)
Regina Folk Festival	(RFF)
Rockton Agricultural Society	(RAS)
Rogers Centre	
Roy Thompson Hall and Massey Hall	(Halls)
Sony Centre	
Summerland Exhibition Association	(SEA)
Toronto Blue Jays	(Jays)
Vancouver Hospitality Association	(VHA)
Western Roots Arts Directors	(WRAD)
Weyburn Agricultural Society	(WAS)

### TABLE 2 – Correspondence between Re:Sound and SOCAN Tariffs

Re:Sound Tariff Part	SOCAN Comparable Tariff
5.A (Recorded music accompanying live	3.B (Recorded music accompanying live entertainment)

entertainment in cabarets, cafes, clubs, restaurants, roadhouses, taverns and similar establishments)	
<b>5.B</b> (Receptions, conventions, assemblies and fashion shows)	<b>8</b> (Receptions, conventions, assemblies and fashion shows)
<b>5.C</b> (Karaoke bars and similar establishments)	<b>20</b> (Karaoke bars and similar establishments)
<b>5.D</b> (Festivals, exhibitions and fairs)	<b>5.A</b> (Exhibitions and fairs)
<b>5.E</b> (Circuses, ice shows, fireworks displays, sound and light shows and similar events)	<b>11.A</b> (Circuses, ice shows, fireworks displays, sound and light shows and similar events)
<b>5.F</b> (Parades)	<b>10.B</b> (Marching bands; Floats with music)
<b>5.G</b> (Parks, streets and other public areas)	<b>10.A</b> (Strolling musicians and buskers; Recorded music)

**TABLE 3 – Comparison of Re:Sound and SOCAN Tariffs**

<b>Re:Sound Tariff Part</b>	<b>Condition</b>	<b>Re:Sound Rate</b>	<b>SOCAN Tariff</b>	<b>Condition</b>	<b>SOCAN Rate</b>	<b>Ratio</b>
<b>5.A</b>	n/a	0.9 per cent of compensation for entertainment	<b>3.B</b>	n/a	2 per cent of compensation for entertainment	45%
<b>5.B</b>	capacity 1-100, no dancing	\$9.25	<b>8</b>	capacity 1-100, no dancing	\$20.56	45%
	capacity 101-300, no dancing	\$13.30		capacity 101-300, no dancing	\$29.56	45%
	capacity 301-500, no dancing	\$27.76		capacity 301-500, no dancing	\$61.69	45%
	capacity over 500, no dancing	\$39.33		capacity over 500, no dancing	\$87.40	45%
	capacity 1-100, dancing	\$18.51		capacity 1-100, dancing	\$41.13	45%
	capacity 101-300, dancing	\$26.63		capacity 101-300, dancing	\$59.17	45%
	capacity 301-500, dancing	\$55.52		capacity 301-500, dancing	\$123.28	45%
	capacity over 500, dancing	\$78.66		capacity over 500, dancing	\$174.79	45%
<b>5.C</b>	operating 1-3 days per week	\$86.06	<b>20</b>	operating 1-3 days per week	\$191.24	45%
	operating 4-7	\$124.00		operating 4-	\$275.56	45%

	days per week			7 days per week		
<b>5.D</b>	up to 25,000 persons in attendance, per day	\$8.39	<b>5.A</b>	up to 25,000 persons in attendance, per day	\$12.81	65%
	25,001-50,000 persons in attendance, per day	\$21.78		25,001-50,000 persons in attendance, per day	\$25.78	84%
	50,001-75,000 persons in attendance, per day	\$42.05		50,001-75,000 persons in attendance, per day	\$64.31	65%
	for the first 100,000 persons, per person	\$0.0054		for the first 100,000 persons, per person	\$0.0107	50%
	for the next 100,000 persons, per person	\$0.0024		for the next 100,000 persons, per person	\$0.0047	51%
	for the next 300,000 persons, per person	\$0.0018		for the next 300,000 persons, per person	\$0.0035	51%
	all additional persons, per person	\$0.0013		all additional persons, per person	\$0.0026	50%
<b>5.E</b>	n/a	0.8 per cent of gross ticket sales	<b>11.A</b>	n/a	1.6 per cent of gross ticket sales	50%
<b>5.F</b>	n/a	\$4.39 per float with recorded music	<b>10.B</b>	n/a	\$8.78 per float with music	50%
<b>5.G</b>	n/a	\$16.28 per day	<b>10.A</b>	n/a	\$32.55	per day 50%

**TABLE 4 – Certified Rates**

<b>Tariff Part</b>	<b>Title</b>	<b>Royalties</b>	<b>Minimum</b>
<b>5.A</b>	Recorded music accompanying live entertainment in	0.9 per cent of compensation paid for entertainment	\$37.64

	cabarets, cafes, clubs, restaurants, roadhouses, taverns and similar establishments					
5.B	Receptions, conventions, assemblies and fashion shows	1-100 persons of capacity	\$9.25 without dancing	\$18.51 with dancing	n/a	
		101-300 persons of capacity	\$13.30 without dancing	\$26.63 with dancing		
		301-500 persons of capacity	\$27.76 without dancing	\$55.52 with dancing		
		More than 500 persons of capacity	\$39.33 without dancing	\$78.66 with dancing		
5.C	Karaoke bars and similar establishments	no more than 3 days per week	\$86.06		n/a	
		4 or more days per week	\$124.00			
5.D	Festivals, exhibitions and fairs	up to 25,000 attendance	\$8.39	per day	n/a	
		25,001 to 50,001	\$21.78			
		50,001 to 75,000	\$42.05			
		If more than 75,000 persons attend				per person
		Up to 100,000	\$0.0054			
		next 100,000 patrons	\$0.0024			
		next 300,000 patrons	\$0.0018			
		additional patrons	\$0.0013			
5.E	Circuses, ice shows, fireworks displays, sound and light shows and similar events	0.8 per cent of gross receipts			\$61.85	
5.F	Parades	\$4.39 per float			\$32.55	
5.G	Parks, streets and other public areas	\$16.28 per day, up to \$111.47 per 3 month period			n/a	

**TABLE 5 – Estimate of total Royalties**

<b>Tariff Part</b>	<b>Total</b>
5.A (Recorded music accompanying live entertainment in cabarets, cafes, clubs, restaurants, roadhouses, taverns and similar establishments)	\$39,226.87
5.B (Receptions, conventions, assemblies and fashion shows)	\$1,567,274.09
5.C (Karaoke bars and similar establishments)	\$100,430.14
5.D (Festivals, exhibitions and fairs)	\$34,833.60
5.E (Circuses, ice shows, fireworks displays, sound and light shows and	\$63,265.00

similar events)	
5.F (Parades)	\$2,669.40
5.G (Parks, streets and other public areas)	\$24,759.38
<b>Total Royalties</b>	<b>\$1,832,458.48</b>