

Copyright Board
Canada



Commission du droit d'auteur
Canada

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Regime Fixing of Royalties in Individual Cases
Copyright Act, sections 66.51 and 70.2

Members Mr. Claude Majeau
Mr. J. Nelson Landry

Society for reproduction rights of authors, composers and publishers in Canada v. ARTV

Reasons for decision

I. INTRODUCTION

[1] These reasons deal with the application for an interim licence by the Society for Reproduction Rights of Authors, Composers and Publishers in Canada (SODRAC) for the use of its repertoire by ARTV.

[2] On September 30, 2011, pursuant to sections 66.51 and 70.2 of the *Copyright Act*¹ (the “Act”), SODRAC asked the Board to set the royalties, interim and then final, as well as the terms and conditions of a licence authorizing ARTV to reproduce the works in SODRAC’s repertoire from September 30, 2011 to September 30, 2014.

[3] SODRAC requested the interim extension of the terms and conditions of the licence agreement previously agreed upon by the parties and that expired on August 31, 2011 (“the licence agreement”).

[4] On January 5, 2012, the Board granted the application by SODRAC for an interim licence duplicating the terms and conditions of the licence agreement. This licence was to take effect on September 30, 2011 and was to be valid until the Board modified it by a subsequent order or made a final decision.

¹ R.S.C. 1985, c. C-42.

[5] With respect to the final licence, the parties had agreed not to proceed on the merits until the Board had issued its decision in the arbitration between SODRAC, on the one side, and the Canadian Broadcasting Corporation (CBC) and Astral on the other side, for the periods November 14, 2008 to March 31, 2012 and December 19, 2008 to August 31, 2012, respectively (“the 2008-2012 arbitration”).

[6] The Board issued its decision in the 2008-2012 arbitration on November 2, 2012. CBC and Astral applied for judicial review of the decision. On March 31, 2014, the Federal Court of Appeal issued its decision. On September 4, 2014, the Supreme Court granted CBC leave to appeal the decision. Astral (Bell Media Inc. as of July 5, 2013) did not file for leave to appeal.

[7] Given the foregoing, at the time the period targeted by the 2011-2014 SODRAC-ARTV arbitration expired on September 2014, the Board had not yet proceeded on the merits of the matter and, consequently, no final decision was issued.

[8] On September 30, 2014, relying on sections 66.51 and 70.2 of the *Act*, SODRAC asked the Board to set the royalties, interim and final, as well as the terms and conditions of a licence authorizing ARTV to reproduce works from SODRAC’s repertoire from October 1, 2014 to March 31, 2016.

[9] SODRAC requests the interim extension of the licence agreement, which the Board had already extended once as per the interim decision of January 5, 2012, until a final decision is issued. ARTV agrees with SODRAC’s request. Given that the 2008-2012 arbitration is before the Supreme Court, the parties agree once more not to proceed on the merits until a final decision is issued in this matter.

II. DECISION

[10] The Application by SODRAC, to which ARTV consents, for an interim licence duplicating the terms and conditions of the licence agreement that expired on August 31, 2011 is granted. This licence takes effect on October 1, 2014 and will be valid until the Board modifies it by a subsequent order or makes a final decision.

A handwritten signature in black ink, appearing to read 'Gilles McDougall', written in a cursive style.

Gilles McDougall
Secretary General