



[CB-CDA 2022-040]

RULING OF THE BOARD

File: Online Audiovisual Services – Music (2014-2018)

July 15, 2022

[1] On June 2, 2022, Apple gave notice that it is withdrawing as a full participant in this proceeding, and asked the Board to change its status to that of a limited intervener, including in respect of the tariffs proposed by SOCAN and SODRAC for which Apple has filed objections.

[2] Apple submits that since the tariff period has passed and that it has fully discharged its royalty obligations for the period via direct agreements with the rights holders, the burden associated with participating in the evidentiary portion and hearing of this proceeding outweighs any benefits Apple may derive.

[3] Notwithstanding its withdrawal, Apple – as a significant operator of an online music service in Canada – believes that the Board's consideration of the remaining tariffs before it, and in particular SOCAN's tariffs, would benefit from Apple's participation by way of written and oral submissions. Apple submits that it has direct interest in the proceedings, and has a distinct perspective to offer the Board regarding the issues before it. Apple also submits that its limited participation would not prejudice any party. Apple provided detailed explanations to support these statements. All parties also received copies of Apple's submissions.

[4] Specifically, Apple requests that it:

1. Would receive copies of communications between the Board and parties;
2. Would receive a copy of the record as it remains to be filed by the parties;
3. May attend any remaining pre-hearing conferences, as well as the hearing; and
4. May file a written submission and make oral submissions.

[5] On June 23, 2022, the Board sent out Notice CB-CDA 2022-036 allowing parties to reply to Apple's request by July 8, 2022. There were no submissions filed in response to this Notice.

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[6] Apple's request is granted.

[7] As per s. 3 of the Directive on Procedure CB-CDA 2017-160, the Board may allow anyone to intervene in these proceedings, insofar as the Board finds it useful, given the interest of the person requesting to intervene and the nature of the participation contemplated by that person.

[8] The Board is satisfied with Apple's detailed explanations, and, therefore, finds Apple's intervention useful given its interest and the proposed nature of its participation. However, it is not necessary, nor appropriate for Apple to participate in purely procedural matters, and its attendance of pre-hearing conferences will be on-leave only. It is not necessary to specify that Apple may attend the hearing, as this would be open to the public in any case.

[9] As such, Apple:

- a. Shall receive a digital copy of the record;
- b. May file written submissions and make oral submissions on the date or dates fixed by the Board for such purposes.

Lara Taylor
Secretary General