



[CB-CDA 2023-067]

ORDER OF THE BOARD

Proceeding: SOCAN Tariff 22.D.3 – Online Allied Services (2014-2023)

December 21, 2023

[1] On May 31, 2023, the Board received the filings requested in Ruling 2023-013 and required by Rule 33(1) of the *Rules of Practice and Procedure*, including the “Experimental Audiovisual Broadcast, BDU and Online Agreement” between SOCAN, CAB and the group of BDUs.

[2] The Panel has completed an initial assessment of this file and has formed a preliminary view on two issues found in the jointly submitted text:

1. References to other tariffs, including Tariff 2.A and Tariff 17 found in the Application (clauses 2.1 and 2.2) and Definition (3.1(11) “Conventional Service”) provisions lack clarity, precision and finality and may prevent service providers from being able to easily determine whether they qualify as users of the tariff.
2. The jointly submitted text does not sufficiently exclude overlapping uses of SOCAN’s repertoire where Tariff 2.A or Tariff 17 may also apply. The Panel’s preliminary view is that users should only pay under one tariff for a particular use and that users should be able to determine on their own what uses should be accounted for and reported under Tariff 22.D.3. The Application provision (clauses 2.1 and 2.2) is missing clear and concrete guidance as to when Tariff 22.D.3 applies.

[3] The Panel is of the preliminary view that new language is needed to resolve these issues before it can continue with an assessment of the proposed tariff.

I. ORDER

[4] SOCAN shall file with the Board and serve on CAB and the BDU group a revised text with language that addresses the two issues outlined, above, no later than **Wednesday, January 31, 2024**.

[5] In addressing Issue 1, the revised text should describe what is included or excluded from the scope of the tariff and should avoid specific or general references to other tariffs. The revised text should also avoid references that stack behind definitions, such as the definition of “Allied Audiovisual Service” and “Conventional Service”.

[6] In addition to the revised text, SOCAN, CAB, and the BDUs are encouraged to provide submissions that might help the Board understand their positions on Issue 2 as well as the market context as it pertains to the identified overlap of tariffs.

[7] SOCAN is expected to work jointly with CAB and the BDU group in preparing this revised text and shall indicate in its filings whether the revised text is submitted jointly.

Lara Taylor
Secretary General