

Copyright Board
Canada



Commission du droit d'auteur
Canada

[CB-CDA 2024-073]

ORDER OF THE BOARD

**Matters: Re:Sound Tariffs 3.B – Background Music (2021-2022, 2023-2026);
Re:Sound Tariffs 5.A to 5.J – Live Events (2016-2020, 2021-2025);
Re:Sound Tariffs 6.A - Use of Recorded Music to Accompany Dance (2019-
2023, 2024-2028)**

September 25, 2024

I. OVERVIEW

[1] On May 13, 2024, Re:Sound, Restaurants Canada and Hotel Association of Canada, jointly requested that the Board initiate a consolidated proceeding with respect to the above-mentioned tariffs (the “Request”).

[2] On June 17, 2024, in Order CB-CDA 2024-043, the Board requested that the Remaining Objectors to the above-mentioned tariffs inform the Board of their interest in participating in the proceeding for their consideration. The Board also requested that any Remaining Objector that did not agree with the Request file submissions with the Board supporting their position. Failure to confirm participation would result in the party being considered as not participating in the consideration of the proposed tariffs. Despite this instruction, no Remaining Objector responded to the Order by the deadline fixed by the Board.

[3] On July 25, 2024, FIC informed the Board that despite the July 2, 2024 deadline for confirming its intention to maintain its objection to various tariffs, it reaffirms its position and wishes to continue opposing Tariff 3.B for the periods 2021-2022 and 2023-2026. Additionally, FIC informed the Board that it had made several attempts to contact Re:Sound in recent months without success.

[4] On July 29, 2024, Re:Sound, HAC and RC filed their joint Statement of Issues (“the JSI”) as requested in Order CB-CDA 2024-043.

II. OBJECTIONS TO RE:SOUND TARIFF 3.B

[5] The Board notes that FIC did not file an objection to Re:Sound Tariff 3.B for the years 2023-2026 within the time frame provided by subsection 68.3(2) of the *Copyright Act*. Despite the fact the FIC is not an objector to the aforementioned tariff, we note that the Board has previously taken the position that a party that has objected to a proposed tariff for one or more years will be able to

act as if it had objected to all years for which that proposed tariff is under consideration in the context of a consolidated proceeding.

[6] Consequently, if the Board grants the Request to consolidate the proposed tariffs into a single proceeding, FIC will be allowed to participate in respect of the 2023-2026 tariff years. Should the proposed tariffs not be considered in the same proceeding, FIC will not be able to participate as an objector to Tariff 3.B for the years 2023-2026. If this is the case, and should FIC wish to participate in respect of this tariff, it may seek intervener status as outlined in section 52 of the *Copyright Board Rules of Practice and Procedure* or file comments with the Board as outlined in section 53 of the *Rules*.

[7] With respect to Tariff 3.B for the years 2021-2022, notwithstanding failure to respond to Order CB-CDA 2024-043 in due time, FIC will be permitted to participate as an objector in any proceeding initiated for the consideration of the tariff.

III. ORDER

[8] At this time, FIC shall provide to the Board and the other parties, no later than **Wednesday, October 9, 2024**, the issues that form its objection to Tariff 3.B for the years 2021-2022. Additionally, FIC shall, by that same date, provide comments on the Request.

[9] Upon receiving FIC's submissions, we ask the parties to engage in discussions aimed at resolving or alternatively narrowing the objections raised. Should any additional issues emerge during the course of the discussions that were not part of the JSI previously filed by the parties, the parties are further instructed to file, no later than **Wednesday, October 30, 2024**, a revised JSI reflecting those issues.

[10] The parties are expected to act in good faith to minimize the areas of contention and expedite the resolution of the matter before the Board.

Greg Gallo
Acting Secretary General