

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date	2025-09-22
Ruling of the Board	CB-CDA 2025-078
Proceeding	SOCAN Tariff 2.D – Canadian Broadcasting Television (2015-2025)
Members	René Côté The Honourable Luc Martineau Katherine Braun

I. Overview

[1] Parties seek clarification on the procedural steps set out in Order CB-CDA 2025-031.

[2] We confirm that this proceeding will be determined in two phases. In Phase 1, the Panel will select a pricing model among the three put forward by the Parties (M1, M2, and M3).

[3] During Phase 2, the Panel will seek submissions and evidence to determine the rate. Phase 2 will also include the examination of other issues, including any sub-issues inherent to the selected model and any related adjustment. As outlined in CB-CDA 2025-031, the Panel will also consider certain terms and conditions including reporting requirements, potential adjustments, interest, termination and audit requirements.

II. Background

[4] In Order CB-CDA 2025-031 the Board explained that:

[2] In order to streamline the process, we establish a two-step approach for moving this proceeding forward. Through the Parties' submissions, it was made clear that the core issue at play is the determination of the rate. In their [Joint Statement of Issues], the Parties put forward three proposed pricing methodologies. We intend to:

1. Seek Parties' submissions on the Board's current, preferred pricing methodology and decide on the preferred approach;

2. Seek submissions on the rate once the methodology is selected.

[5] On July 18, 2025, SOCAN formally asked for clarifications and asked the following questions:

1. What issues will the Board render a decision on following the parties' submissions? Namely, does the Board intend to render its decision in phases? If so, what issues will be decided in this phase? Will the Board render a decision on the valuation methodology only, or will the Board render a decision on each point addressed in the Order? Will such decision be a final determination? Will any issues not addressed in the Order be deferred to a future phase?
2. What is the deadline for filing submissions? SOCAN would propose 90 days from the date of the Board's directions issued in response to this letter.
3. Can these submissions include expert reports? If so, what is the page limit (if any) for expert reports?
4. What other steps will occur after submissions but before the Board renders a decision? Namely, will the parties have an opportunity to conduct cross-examinations (if desired) or file reply submissions (including reply expert reports)? If so, what will the process be for these additional steps? Will the Board set that process now or after the initial submissions have been filed?
5. Will there be an oral hearing on this phase of submissions, or will the process be in writing only?

[6] On August 15, 2025, CBC wrote to the Board to:

- Confirm its understanding of the Board's procedural framework;
- Seek clarifications on whether adjustments inherent to the model selected will be discussed in Phase 2; and
- Respond to SOCAN's points raised in its July 2025 letter to the Board.

III. Ruling

[7] We confirm that the procedural framework for this proceeding is as follows:

1. This proceeding will be determined in two phases, Phase 1 and Phase 2. The decision rendered in each phase will be final, in the sense that once a model is selected in Phase 1, the choice of model will not be revisited in Phase 2, barring unforeseen circumstances. Parties must therefore put their "best foot forward" in each phase.

2. Phase 1 will deal with the choice of pricing model among the three models put forward by the Parties (M1, M2, and M3).
3. In Phase 2, we will seek evidence and submissions to calculate the royalties to be paid based on the pricing model selected in Phase 1. Adjustments inherent to the model selected will be examined at that time. This will involve both the mathematical exercise of calculating the rates using the parameters of the chosen model (inflation, relative viewership, etc.), and also any other potential adjustments. These adjustments may involve exceptions/users' rights under the *Copyright Act*, or other factors (such as the effect of the Olympics). As outlined in Order CB-CDA 2025-031, the Panel will also consider certain terms and conditions including reporting requirements, interest, termination and audit requirements during Phase 2.

[8] In terms of the points raised by SOCAN, we address them in their numerical order:

1. The questions raised are addressed in paragraph [7] above.
2. Parties shall file their submissions 90 days from the date of this ruling, that is no later than **January 8, 2026**.
3. Submissions may include expert reports. The latter shall focus solely on the choice of model. The choice of a model can be made largely in the abstract, looking at the mathematical properties of the model. Parties should refer to the Board's [Practice Notice on Submitting Economic Evidence \(PN 2023-009\)](#) for further guidance. If applicable, Parties shall confirm whether data is available to sustain the recommended model. We do not set page limits and trust counsel and experts to keep the reports focused as described herein. Anything beyond this will be disregarded.
4. Cross-examination of the experts may or may not be required. Parties shall seek leave to cross-examine within **2 weeks from January 8, 2026**.
5. Response submissions, which may contain response expert reports, may be filed no later than 45 days after the Parties' initial submissions are filed, unless cross-examination is permitted. If any, the ruling permitting cross-examination will set new deadlines for the response submissions.
6. Phase 1 will be conducted in writing, but we may hold an oral hearing if we deem it necessary, after we have reviewed the submissions and response submissions filed. We undertake to advise Parties no later than six weeks after all submissions are filed, if an oral hearing will be held and consult with Parties at that time on proposed dates.