

July 4, 2018

BY EMAIL

Gilles McDougall
Secretary General
Copyright Board of Canada
56 Sparks Street, Suite 800
Ottawa ON K1A 0C9

Ref: CB-CDA 2018-098

Subject: Objection to Re:Sound Background Music Tariff 2019-2022.

Dear Mr. McDougall,

CAPACOA objects to Re:Sound Background Music Tariff 3.B 2019-2022, gazetted May 5, 2018, on the following bases.

Firstly, the proposed royalty increases are excessive in view of existing rates and considering the financial realities of performing arts organizations.

Secondly, the proposed minimum annual fee is also excessive considering the limited use of background music in most performing arts venues. Performing arts organizations who present a variety of different disciplines are already subject to existing or proposed blanket live performance tariffs that also account for the use of background music. These include settlement Tariff 5.A Recorded Music Accompanying Live Entertainment 2015, certified Tariff 5.E Circuses, Ice Shows, Fireworks Displays, Sound and Light Shows and Similar Events, as well as proposed 5.I Comedy and Magic Shows and 5.J Concerts. For presenters who licence mostly under one or several of these tariffs, the requirement to pay a minimum annual fee for occasional use of background music under proposed Tariff 3.B would be unfair. In addition, with so many different tariffs requiring the payment of a minimum per-event fee or a minimum annual fee, there are significant risks that multi-disciplinary performing arts organizations might have to pay several minimum fees within a given reporting period. Such an accumulation of minimum fees would be unfair, and could even cause hardship to smaller organizations.

Thirdly, the proposed hierarchy that gives precedence to the per-capacity fee over the per-admission fee would be unfair to performing arts organizations. The per-capacity fee is designed for restaurants and other similar venues where the same seat can be occupied by several different customers over a given day, during lunch, dinner and late evening. In the performing arts sector, technical and union requirements make it very difficult to present more than one performance per day in any given venue. Moreover, certain performances call for a more intimate setting and, for such performances, presenting organizations may not necessarily open up all seats of a given venue for ticket sales (i.e., closing the balcony or blocking the side aisle seats). For these reasons applying the per-capacity fee to performing arts organizations would

result in these organizations paying comparatively significantly more per customer than restaurants and other music users for whom the per-capacity fee is better adapted.

CAPACOA reserves the right to raise additional objections to this proposed tariff after the interrogatory phase of the proceedings has been completed.

CAPACOA intends to undertake constructive discussions with Re:Sound and the other objectors in order to attempt to resolve our objection before the hearing phase of the proceedings.

Yours truly,