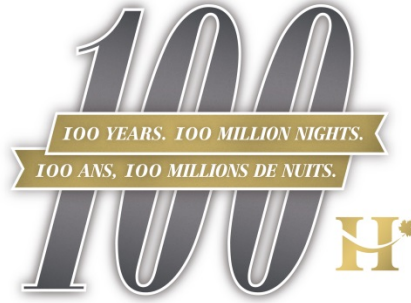




September 10, 2013

Mr. Gilles McDougall
Secretary General
Copyright Board Canada
56 Sparks Street, Suite 800
Ottawa, Ontario
K1A 0C9

Dear Mr. McDougall:

SUBJECT: SOCAN Proposed Tariffs

This is further to the Hotel Association of Canada formal objection of August 28, 2013 to SOCAN proposed tariffs as published in the Canada Gazette on June 29, 2013.

The HAC opposes proposed Tariff 15 on account of the inclusion of television sets; and, the fact that the rate in Tariff 15 is excessive and unreasonable, as well as unfair and inequitable in view of the rate provided for background music suppliers in Tariff 16 and in view of the principle of technological neutrality.

The HAC opposes proposed Tariff 16 on account of, and in view of the recent decision of the Supreme Court of Canada in ***Entertainment Software Association v. Society of Composers, Authors and Music Publishers of Canada***, 2012 SCC 34. The Copyright Board cannot impose a separate tariff charge for both the authorization of a performance in public and for communication to the public by telecommunication arising out of the activity of a background music supplier as contemplated by the proposed tariff.

In view of the recent decision of the Supreme Court of Canada in ***Entertainment Software Association v. Society of Composers, Authors and Music Publishers of Canada***, 2012 SCC 34, the Board must take into account that where a single economic activity implicates more than one type of right and each type is administered by a separate collective, each right cannot be valued independently without regard to the other right(s) and must be reduced so as to “to efficiently manage and administer different copyrights under the Act” and to set royalty rates in tariffs that are “fair and equitable”. Specifically it is noted that the above proposed tariffs are very similar to or overlap with proposed Re:Sound tariffs published in the Canada Gazette on June 29, 2013.

Hotel Association of Canada

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The HAC submits that SOCAN should be prohibited in respect of all the above proposed tariffs from sharing any information received pursuant to a Copyright Board tariff with any other collective.

The HAC reserves the right to raise any other grounds of objection to any of the proposed tariffs.

Sincerely,