

August 18, 2015

Attention: Copyright Board of Canada

GILLES McDOUGALL
Secretary General
56 Sparks Street, Suite 800
Ottawa, Ontario
K1A 0C9
613-952-8624 (telephone)
613-952-8630 (fax)
gilles.mcdougall@cb-cda.gc.ca (email)

In response to an email communication we received dated June 19, 2015, from email address Roch.Levac@cb-cda.gc.ca, with the subject title stated as:

Proposed Tariffs - Re:Sound 1.A.2 (2016-17), 1.C.2 (2016), 2.B (2016), 4.B (2016-18), 5.A.-J. (2016-20), 6.A (2016-2018), 6.C (2016-2020) & 8 (2016) - Publication in the Canada Gazette [CB-CDA 2015-038]

My name is Leslie Evans, Executive Director of the Federation of Calgary Communities, and I am submitting our organization's objections to the Copyright Board of Canada regarding proposed tariffs for Re:Sound. I understand the deadline for objections to proposed tariffs has been established as August 19, 2015. Before this letter gets into specific details, I need to establish some context before itemizing our concerns with the tariffs themselves.

The Federation of Calgary Communities is a support not-for-profit organization to over 200 member not-for-profit organizations, including the 150 community associations of Calgary and area. Community associations are a vital anchor for community life in Calgary, and as a network of volunteer-run organizations, they need support to effectively operate. One of the Federation's fundamental priorities is to support our members by offering an informed and respected voice on issues important to building, supporting, and maintaining community life in Calgary. As such, the Federation consistently educates our members on how to effectively identify, understand, and engage with those authorities they must remain in compliance with, so they in turn can safeguard their associations by understanding clearly defined standards, and uphold their accountabilities.

In Calgary, all our community associations are incorporated, not-for-profits run by volunteer boards of directors, a standard organizational model in the voluntary sector. It is also important to note that our community associations are defined by their local geographic community boundaries (i.e. neighbourhood catchment areas), and since these geographical boundaries determine who can belong to their membership base, the boards inevitably recruit local residents to serve as volunteer directors on their boards. While some incoming board members who

Suite 301, 1609 – 14th Street SW
Calgary, Alberta T3C 1E4

T 403.244.4111

F 403.244.4129

E fcc@calgarycommunities.com

calgarycommunities.com



step up to govern understand that a board's role includes shouldering the legal liability on behalf of association business, many board volunteers do not. The education around good governance, board roles and responsibilities, directors' accountabilities, and the compliance they must uphold is in a permanent loop of continued education. This is largely due to the nature of volunteer turnover at the board level. However, it is also due to the nature of how complex their accountabilities are; the ease in which they are able to digest compliance responsibilities in all aspects of their business, while working effectively with individual authorities like Re:Sound.

As such, when the Federation is working to educate our members on their accountabilities, it is crucial we refer to processes that are accessible, written in plain language, and consolidate their bottom line priorities. When reviewing the different Re:Sound tariffs and their circumstantial nuances, the overall process appears fractured, encompasses a wide range of potential business practices or programming where tariffs may (or may not) be required, and is thereby difficult to apply and uphold. In order to ensure compliance with Re:Sound is manageable, and within the capacity of volunteer boards governing in the voluntary sector, Re:Sound must simplify and consolidate requirements, factor in the nature of the work not-for-profit, community-based organizations engage in (services for public benefit, not to generate profits), and also take into account the budgetary constraints all organizations face in the voluntary sector.

All of Calgary's 150 community associations receive organizational development support from the City of Calgary municipality, and from the Federation of Calgary Communities. However, these groups manage their operations, programs and services with relative autonomy and independence, with little external oversight. Neither the Federation or municipality can serve as an enforcer, at least where matters like Re:Sound are involved.

In the new Re:Sound tariffs being proposed, Tariff 2.B "Pay Audio Services Simulcasts"; Tariff 4.B "Satellite Radio Services Simulcasts"; Tariff 6.A "Use of Recorded Music to Accompany Dance"; and Tariff 8 "Non-Interactive and Semi-Interactive Webcasts" all present situations which may implicate community groups through their programs and services. This is regardless of whether they are playing music or radio devices for in-house purposes, or whether this music is being used by external, 3rd party renters or sublease groups who come in to use community association space. I understand that Tariff 5.A.J "Concerts" is the only one currently being put forward from all of Tariff 5, however I would like to note that nearly all of Tariff 5 is problematic for our community groups.

When looking at Tariff 5, including 5.B "Receptions, Conventions, Assemblies and Fashion Shows", 5.D "Festivals, Exhibitions and Fairs", 5.G "Parks, Streets and Other Public Areas", and 5.H "Sports Events", all these have widely ranging costs, with variables that adjust according to things like the nature of use of music, the room capacity, numbers in attendance, quantities of events, or even (logical) adjustments for inflation. It is too much for our board volunteers to manage with consistency and clarity. Our community associations do not run lucrative business operations. In instances where a 3rd party hall rental group comes in to use their space, and should they be engaging in activities that may require a tariff (e.g. a dance class with radio or music playing), the onus resides with the community association to ensure this tariff is purchased (or paid for), the cost either being absorbed by the

Suite 301, 1609 – 14th Street SW
Calgary, Alberta T3C 1E4

T 403.244.4111

F 403.244.4129

E fcc@calgarycommunities.com

calgarycommunities.com



community association, or alternately, recovered in the rental rates imposed on the renter. Community associations are not in the business of generating large profits, and therefore do not charge commercially competitive rental rates. The vast majority of our members are also not registered with the Canada Revenue Agency as charitable organizations. Without this charitable status, grant opportunities are limited and funding sources are scarce. They all require the modest revenues they generate through in-house programming, or through 3rd party hall rental practices in order to run sustainable operations; and reinvest these dollars back into quality programming or expansion, or infrastructure improvements and upgrades. The use of music in community programming is prevalent, and varied in its many applications. Furthermore, they need to keep costs low.

The Re:Sound fee structures, currently applied on a case-by-case basis, cause our members planning and financial stress. Some of these fees are completely out of scope for standard community programming. For example: an outdoor “community concert” requiring Tariff 5.A.J, where music is played “during the entrance and exit of audiences and during breaks in live performances” might have 3,000 people in attendance, and as such would incur a charge of \$1,392.00 simply for this use of music (as we interpret Tariff 5.A.J.) I can assure you that when planning to provide such an event, either with a low entry cost or potentially free, a community association given the option to use music and pay this fee would simply decide to cancel their use of music (according to 5.A.J.) It would be fair to suggest there might also be groups throughout Canada who would look at the same scenario and choose to use music in this manner and ignore the tariff requirements, based on the perception that such a fee is unreasonable when a community group is engaging the public at low cost, for community benefit, and the process for seeking out tariff requirements and payment scheduling is a hassle to endure.

The Federation has previously, and will continue to promote Re:Sound compliance, however we ask that you take community groups into consideration and make amendments that you feel satisfactory, not only for your own organizational priorities, but to make accommodations for community groups who do not intend to exploit the use of music for negative purposes, but require a simpler system to navigate.

The Federation had similar objections in response to the continued growth of the SOCAN tariffs. As a result of our efforts to raise awareness on the challenges facing the voluntary sector, SOCAN’s Tariff 21 was created in order to accommodate “community organizations” with an annual, one-time payment plan that would encompass all (or at least most) forms of community programming. While SOCAN’s Tariff 21 did not explicitly remove community organizations from being implicated in other SOCAN tariffs, it made accommodations through two fronts: (1) by allowing for a one-time fee to simplify the process for “music during recreational activities, in facilities operated by a...community organization” (SOCAN, Tariff 21 Inforcard, 17 August 2015); and (2) further identifying that “Coverage [is] only [for] activities that would otherwise be subject to a license under the following tariffs...[5A; 7; 8; 9; 11A; 19” (SOCAN, Tariff 21 Inforcard, 17 August 2015). This tariff and its references to other SOCAN tariffs speaks to the typical kinds of community programs and activities run by our members like skating rinks, sports events, recreation/fitness classes, and more. As of 2015, the SOCAN Tariff 21 fee is a flat rate of \$185.07, to be paid annually,

Suite 301, 1609 – 14th Street SW
Calgary, Alberta T3C 1E4

T 403.244.4111

F 403.244.4129

E fcc@calgarycommunities.com

calgarycommunities.com





and our members are pleased to pay this SOCAN Tariff fee and be assured they have satisfied their requirements (unless other needs arise).

The Federation of Calgary Communities asks that Re:Sound be given similar consideration as SOCAN Tariff 21 to accommodate community groups. For the time being, this may be done by including exemptions for community groups in Tariff's 1.A2, 1.C.2, 2.B, 4.B, 5.A.J, 6.A, 6.C, and 8, or alternately, by incorporating a new standard, low-cost rate of equivalent value across all tariffs for community groups. This would demonstrate a willingness by Re:Sound to simplify the process for those who seek to remain in compliance yet struggle under the current framework.