

COPYRIGHT BOARD

IN THE MATTER OF a Proposed Statement of Royalties to Be Collected by Re:Sound for the Performance in Public or the Communication to the Public by Telecommunication, in Canada, of Published Sound Recordings Embodying Musical Works and Performers' Performances of Such Works for the Years 2016 to 2020

OBJECTION TO STATEMENT OF PROPOSED ROYALTIES

filed by

NATIONAL HOCKEY LEAGUE (AND ITS CANADIAN MEMBER CLUBS), NATIONAL FOOTBALL LEAGUE, CANADIAN FOOTBALL LEAGUE, MAPLE LEAFS SPORTS AND ENTERTAINMENT PARTNERSHIP (AND ITS CANADIAN TEAMS), TORONTO BLUE JAYS (ROGERS BLUE JAYS BASEBALL PARTNERSHIP), and ROGERS CENTRE (ROGERS STADIUM LIMITED PARTNERSHIP)

Re:Sound Tariff 5.A-J (Use of Music to Accompany Live Events), 2016 to 2020

INTRODUCTION

1. This is the Statement of Objection of the National Hockey League (and its Canadian Member Clubs), National Football League, Canadian Football League, Maple Leafs Sports and Entertainment Partnership (and its Canadian Teams), Toronto Blue Jays (Rogers Blue Jays Baseball Partnership), and Rogers Centre (Rogers Stadium Limited Partnership) (collectively, “the Sports Objectors”), to the Proposed “Statement of Royalties to be Collected by Re:Sound for the Performance in Public or the Communication to the Public by Telecommunication, in Canada, of Published Sound Recordings Embodying Musical Works and Performers’ Performances of Such Works for the Years 2016 to 2020” (the “Statement of Proposed Royalties”) filed by Re:Sound and published in the Supplement to the Canada Gazette, Part 1, June 20, 2015 pursuant to section 67.1(5) of the *Copyright Act*.
2. The Sports Objectors respectfully reserve the right to rely upon objections raised by any other parties to the proceedings, *mutatis mutandis*. The Sports Objectors also reserve their right to raise additional substantive points of objection throughout the proceedings related to the Statement of Proposed Royalties.
3. These objections are filed in accordance with the *Copyright Act*.

OBJECTIONS

4. The Sports Objectors object to the Statement of Proposed Royalties in its entirety.
5. Without limiting their general objection, the Sports Objectors object in particular to:
 - (a) The proposed royalties set out in respect of Tariffs 5.E, 5.H, 5.I, and 5.J, for at least the following reasons:

- (i) The proposed royalties do not accurately reflect Re:Sound's repertoire, nor do they accurately reflect the percentage of eligible recordings used to accompany live events for which Re:Sound has obtained written authorization to collect equitable remuneration; and
- (ii) The proposed royalties do not reflect the fact that Re:Sound does not, when requested, provide sufficient information about its repertoire, as required by section 67 of the *Copyright Act*, to allow members of the public to avoid using the repertoire. The Sports Objectors are thereby effectively prevented from avoiding Re:Sound's repertoire due to Re:Sound's failure to comply with section 67 of the *Copyright Act*.

For at least these reasons, the Sports Objectors believe that there should be no royalties payable for these tariffs. Alternatively, the Sports Objectors believe the royalties should be significantly lower than those approved by the Board in the last certified tariff;

- (b) The reporting and auditing provisions contained in the Statement of Proposed Royalties. These provisions are intrusive, require the disclosure of potentially sensitive confidential information, and place a disproportionate burden on licensees;
- (c) The confidentiality provisions contained in the Statement of Proposed Royalties. These provisions fail to adequately protect the sensitive confidential information that may be provided to Re:Sound by licensees; and
- (d) The rate adjustment provisions contained in section 10 of the Statement of Proposed Royalties. These provisions are unnecessary and unreasonable and will produce uncertainty for licensees regarding the tariff payments for which they may be liable throughout the term of the tariff.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 19th day of August, 2015.