

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 2021 to 2025

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), 2021 to 2025

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 Statements 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”, Tariff 5.A-J (the “Statement of Proposed Royalties”) filed by Re:Sound and published in the Supplement to the Canada Gazette, Part 1, May 11, 2019.
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 users. In addition, the period for adjusting errors in the amounts owed is too short and replacing the precise and accurate language "person subject to this tariff" with the less precise and less accurate "venue or presenting company" is likely to lead to confusion among users as to the reporting obligation" ; and
- (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 users.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9th day of July, 2019.