

July 10, 2019

BY EMAIL

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

Subject: Re:Sound Tariffs 5.A, B, D, E, F, I, G, J – 2021-2025

Dear Mr. McDougall,

CAPACOA, on behalf of its members and partner associations, objects to Re:Sound Tariffs 5.A, B, D, E, F, I, G, J for the years 2021-2025 on the following bases:

- Some tariffs cover very similar activities, but have inconsistent royalty structures and rates. The applications of Tariff 5.E (which covers circus activities) and 5.I (Comedy and magic show) are very similar to 5.A (Recorded Music Accompanying Live Entertainment), which applies to “any type of live entertainment event including theatrical, dance, acrobatic arts, integrated arts, contemporary circus arts or other live performances.” The nature of the contemporary performing arts is such that it can be difficult to classify certain performances under a given discipline or form. Perpetuating the practice of applying distinct tariffs for related types of live entertainment is bound to create confusion among licencees. This may, in turn, lead to improper licencing and/or lower compliance rates. Moreover, this practice fails to establish a standard economic value for the same use of recorded music.
- Similarly, Tariff 5.J (Concerts) is essentially a background music tariff in a concert setting. CAPACOA has previously argued that, since background music is already accounted for under Tariff 3.B, the certification of Tariff 5.J created unnecessary redundancy and inefficiencies. Moreover the inconsistency in royalties between Tariff 5.J and 3.B would create the same issues identified above. As current objector in the joint hearing on Re:Sound and SOCAN background music tariffs, CAPACOA believes that Re:Sound Tariff 5.J should also be considered within the context of this joint hearing.
- Regarding Tariff 5.D (Festivals, Exhibitions and Fairs), CAPACOA wishes to notify the Board that we have been in discussion with Re:Sound about incremental adjustments to the proposed fee table to provide for more gradual increases across different attendance brackets.
- The proposed royalty rates for all tariffs are excessive in view of existing rates and considering the financial realities of performing arts organizations.

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

CAPACOA intends to undertake constructive discussions with Re:Sound in order to attempt to resolve our objection before the hearing phase of the proceedings. CAPACOA worked constructively with Re:Sound in the past, and we are confident that the upcoming negotiations will once again result in tariffs that are fair to right holders and simple for music users.

About CAPACOA and Associations Affiliated with this Objection

The Canadian Arts Presenting Association/l'Association canadienne des organismes artistiques (CAPACOA) serves the performing arts touring and presenting community through its commitment to integrate the performing arts into the lives of all Canadians. CAPACOA represents 150 professional for-profit and not-for-profit presenters, festivals, presenter networks and associations, artistic companies, agents, managers and other stakeholders working across the presenting and touring sector in Canada. Collectively, our affiliated associations and networks represent more than 2000 organizations and individual artists.

The present objections were discussed and agreed upon by members of CAPACOA's Advocacy Committee. The **Canadian Live Music Association** and **Festivals and Major Events Canada** are members of this Committee and they both support these objections. The Canadian Live Music Association has specifically asked to be identified as an objector, along with CAPACOA. Festivals and Major Events wishes to be identified as interested parties in the proceedings.

Yours truly,