

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

## **PN 2022-007 rev. 3**

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### **Practice Notice on Filing a Notice of Grounds for Objection**

#### **General Statement**

[1] Detailed grounds for an objection help the Board and the collective society understand the specific reasons behind the objection.

[2] Along with the Notice of Grounds for Proposed Tariff, the Notice of Grounds for Objection helps the Board identify potential issues to consider in its examination of a proposed tariff. These issues may be of a legal, economic, or practical nature.

[3] The Notice of Grounds will also help the Board determine whether it should hold a hearing in respect of a proposed tariff (*Time Limits in Respect of Matters Before the Copyright Board Regulations*, SOR/2020-264, s. 5).

[4] Rule 18 of the *Copyright Board Rules of Practice and Procedure* requires a person who files an objection to a proposed tariff (an “objector”) to also file a Notice of Grounds for Objection along with their objection.

[5] This Practice Notice clarifies what information to provide in the Notice of Grounds for Objection pursuant to paragraphs 19(a) and 19(b) of the *Rules*, and what additional information the Board requires under paragraph 19(c) of the *Rules*.

#### **Contents of the Notice of Grounds for Objection**

[6] Objectors must use plain language and concrete examples that would be generally understood by other potential users of the proposed tariff and by the collective society.

[7] No information in the Notice of Grounds for Objection may be designated as confidential.

Identifying Why the Board Should Not Approve the Proposed Tariff Despite Any Alteration, Under Paragraph 19(a) of the *Rules*

[8] Objectors may provide grounds for why the Board should not approve the proposed tariff in any form. Examples of such grounds include issues regarding the authority of the collective society to authorize the uses in the proposed tariff and whether the activities identified in the Notice of Grounds for Proposed Tariff actually engage the uses to which the proposed tariff would apply.

Objecting to Any Royalty or Levy Rates In the Proposed Tariff, Under Paragraph 19(b) of the *Rules*

[9] In setting out the grounds for objection to the proposed tariff, under paragraph 19(b) of the *Rules*, objectors must identify and provide separate grounds for why the Board should not approve a proposed royalty or levy rate. In setting out these grounds, objectors must identify the specific provision or provisions to which they object, such as those setting out a proposed rate, rate structure, minimum fee, or interest rate.

[10] The grounds for objection may be based on disagreement with the grounds provided by the collective society in the Notice of Grounds for Proposed Tariff (e.g., choice of source for the royalty rate, calculations related to inflation) or on grounds not addressed by the collective society.

[11] Objectors may propose alternate royalty or levy rates or structures that they wish the Board to consider. In so doing, objectors must identify and describe the specific alterations or additions that they wish the Board to consider, and provide grounds in support of them.

[12] Objectors must also explain how their alternate rates were determined. Such explanations must identify any source for the alternate royalty rate or structure and be sufficient to permit the Board and collective societies to understand the general basis for them—including any minimum fees.

Objecting to any Terms or Conditions in the Proposed Tariff, Under Paragraph 19(b) of the *Rules*

[13] In setting out the grounds for objection to the proposed tariff, under paragraph 19(b) of the *Rules*, objectors must identify and provide separate grounds for their objection to any other term or condition. These grounds may include issues of practicality, feasibility, or cost of complying with the terms or conditions.

[14] In setting out these grounds, objectors must identify each specific term or condition to which they object. Possible grounds may also include the absence of any terms or conditions.

[15] Objectors may propose alterations or additions to the terms or conditions that the Board should consider. Such proposals must identify the proposed term or condition to which the alteration or addition applies, specifically identify the proposed alteration or addition, and explain their grounds for proposing them.

#### Providing Other Information, Pursuant to Paragraph 19(c) of the *Rules*

[16] Objectors may provide any other grounds or information that they wish to bring to the attention of the Board that do not fit within the categories above. An example of other grounds includes the constitutionality of a provision engaged by the consideration of the proposed tariff.

#### **Document Format and Official Languages**

[17] Documents must meet the requirements set out in the Board's *Practice Notice on Format of Electronic Documents* (PN 2019-001).

[18] The Notice of Grounds shall include a header, in the form set out in the Annex.

[19] As set out in Rule 14, the Notice of Grounds for Objection may be filed in the official language of the objector's choice.

#### **Filing and Publication**

[20] Unless directed otherwise, Notice of Grounds for Objection shall be filed using the electronic form on the Board's website.

[21] The Board will publish the Notice of Grounds for Objection and accompanying documents, as filed, on its website.

## ANNEX – Header of a Notice of Grounds for Objection

NOTICE OF GROUNDS FOR OBJECTION

Filed by [**Name of Objector(s)**]

In relation to proposed tariff [*Title of Proposed Tariff including period*]

Filed with the Copyright Board on [YYYY-MM-DD] pursuant to Rule 18 of *Copyright Board Rules of Practice and Procedure*.

### ***Example***

NOTICE OF GROUNDS FOR OBJECTION

Filed by **J-Doe.Inc**

In relation to proposed tariff *CBRA – Commercial Media Monitoring Tariff and Non-Commercial Media Monitoring Tariff (2023-2025)*

Filed with the Copyright Board on 2022-11-18 pursuant to Rule 18 of *Copyright Board Rules of Practice and Procedure*.