

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

Ottawa, September 16, 2019

**File: 2019-UO/TI-08**

Mr. Lawrence,

The Copyright Board has reviewed your licence application filed on March 20, 2019 for the reproduction of 12 old-time radio drama scripts written by a number of authors, and has determined that a licence cannot be issued as your application does not meet one or more of the requirements of section 77 of the *Copyright Act* (the “Act”).

In this regard, subsection 77(1) of the Act states that

[w]here, on application to the Board by a person who wishes to obtain a licence to use

- a) a published work,
- b) a fixation of a performer’s performance,
- c) a published sound recording, or
- d) a fixation of a communication signal

in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in section 3, 15, 18 or 21, as the case may be. [our underline]

Moreover, subsection 2.2(1) of the Act states that

For the purpose of this Act, “publication” means

- (a) in relation to works,
- (i) making copies of a work available to the public;

[...]

but does not include

- (c) the performance in public, or the communication to the public by telecommunication, of a literary, dramatic, musical or artistic work [...]

[our underline]

Given that the 12 scripts you wish to reproduce have not been published within the meaning of section 2.2 of the Act, the Copyright Board cannot issue a licence.

The fact that the Board cannot issue a licence should not be interpreted as meaning that the reproductions you wish to make are, or are not, an infringement of copyright. However, as the Board cannot provide legal advice to the public, we encourage you to obtain legal advice from a lawyer specialized in the field.

Regards,

A handwritten signature in black ink, appearing to read 'Lara Taylor', with a stylized flourish at the end.

Lara Taylor  
Secretary General