

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

**Date** 1997-05-23

**Citation** FILES: Public Performance of Music 1996, 1997

**Regime** Public Performance of Music  
*Copyright Act*, Section 67.2

**Members** Michel Hétu, Q.C.  
Ms. Adrian Burns  
Mr. Andrew E. Fenus

**Statement of Royalties to be collected for the performance or communication by telecommunication, in Canada, of musical or dramatico-musical works in 1996 and 1997**

**Reasons for decision**

Pursuant to section 67 of the *Copyright Act*, the Society of Composers, Authors and Music Publishers of Canada (SOCAN) filed with the Board a statement of proposed royalties for the public performance, or the communication to the public by telecommunication, in Canada, of musical or dramatico-musical works in 1997. A similar filing was made for the year 1996.

The statement was published in the *Canada Gazette* on October 19, 1996. At the same time, the Board notified prospective users and their representatives of their right to file objections to the proposed tariff no later than November 16, 1996. The statement filed for 1996 had been published in a similar fashion.

The following gives reasons for the following undisputed tariffs:

For the years 1996 and 1997

Tariff 1.B (Non-Commercial Radio);

Tariff 3.B (Cabarets, Cafes, Clubs, etc. – Recorded Music Accompanying Live Entertainment);

Tariff 3.C (Adult Entertainment Clubs); and

Tariff 11.A (Circuses and Ice Shows).

For the year 1997

Tariff 2.B (TVOntario);

Tariff 2.C (Télé-Québec);

Tariff 3.A (Cabarets, Cafes, Clubs, etc. – Live Entertainment);

Tariff 4 (Concerts);

Tariff 5 (Exhibitions and Fairs);

Tariff 7 (Skating Rinks);

Tariff 9 (Sports Events);

Tariff 11.B (Comedy Shows and Magic Shows);

Tariff 12 (Theme Parks, Ontario Place Corporation and Similar Operations; Canada's Wonderland and Similar Operations);

Tariff 13 (Public Conveyances);

Tariff 14 (Performance of an Individual Work);

Tariff 15 (Background Music);

Tariff 16 (Music Suppliers);

Tariff 18 (Recorded Music for Dancing);

Tariff 20 (Karaoke Bars and Similar Establishments); and

Tariff 21 (Recreational Facilities Operated by a Municipality, School, College or University).

No objections were filed to proposed Tariffs 2.B, 2.C, 5.A, 7, 9, 11.B, 12, 13, 14, 15, 18, 20 and 21 for 1997. Tariff 9 reflects an agreement reached between the Canadian Alliance of Music Presenters and SOCAN for the years 1992 to 1997. Tariff 18 reflects an agreement reached between the Hotel Association of Canada, the Canadian Restaurant and Foodservices Association and SOCAN covering the years 1992 to 1997. These tariffs are consequently certified as filed.

An objection to proposed Tariff 1.B was filed by *Radio Ville-Marie* for each of the years 1996 and 1997. In a letter dated March 24, 1997, *Radio Ville-Marie* withdrew its objections. This tariff is consequently certified as filed.

The Ontario Adult Entertainment Bar Association objected to proposed Tariff 3.B for the years 1996 and 1997 and the Hotel Association of Canada objected to the same tariff for the year 1997. The Board adopted a new Tariff 3.C for 1995 in its decision dated September 20, 1996 following a hearing in which the Ontario Adult Entertainment Bar Association took part. In a letter dated

March 25, 1997, the latter agreed with SOCAN's proposal that Tariff 3.C, as certified for 1995, be applied for the years 1996 and 1997, on the same terms and conditions. It also withdrew its objection to Tariff 3.B. The Hotel Association of Canada also withdrew its objection in a letter dated March 11, 1997, indicating that proposed Tariffs 3.A and 3.B reflect the six-year agreement (mentioned above) reached between the Hotel Association of Canada, the Canadian Restaurant and Foodservices Association and SOCAN. Tariffs 3.A and 3.B are consequently certified as filed, while Tariff 3.C will read in 1996 and 1997 as it did in 1995.

Many objections to proposed Tariffs 4 and 5.B for 1997 were filed, mostly by parties who took part in the hearing on the same tariffs for the years 1995 and 1996, which lead to a decision by the Board on September 20, 1996. On February 28, 1997, SOCAN suggested that Tariffs 4.A (Popular Music Concerts), 4.B.1 (Classical Music Concerts – Per concert or event licence), 4.B.3 (Classical Music Concerts – Annual licence for presenting organizations) and 5.B (Exhibitions and Fairs – Admission to a concert) be certified using the same wording and rates as in 1996. The objectors all agreed to SOCAN's proposal and withdrew their objections. SOCAN also proposed that Tariff 4.B.2 (Classical Music Concerts – Annual licence for orchestras) be certified for 1997 as filed, thus reflecting an agreement reached between the Association of Canadian Orchestras and SOCAN. The Board agrees with SOCAN's proposals and therefore certifies these tariffs for 1997 accordingly.

The Ontario Recreation Facilities Association (ORFA) has objected to proposed Tariff 11.A (Circuses and Ice Shows) for the years 1996 and 1997. In the letter dated February 28, 1997 mentioned above, SOCAN suggested that this tariff be certified using the same wording and rate as in 1995. ORFA agreed to this proposal by letter to the Board dated May 1, 1997. The Board therefore agrees with SOCAN's proposal and certifies Tariff 11.A for the years 1996 and 1997 accordingly.

Objections to proposed Tariff 16 (Music Suppliers) for 1997 were filed by the parties who took part in the hearing on this tariff for the years 1994 to 1996. The Board had rendered a decision on September 20, 1996. All of the objections were withdrawn further to SOCAN's proposal of December 23, 1996 that Tariff 16 for the year 1997 be the same as the one certified for the years 1994, 1995 and 1996. The Board consequently certifies Tariff 16 for the year 1997.

The Board also acknowledges SOCAN's withdrawal of Tariff 17.B (Transmission of Pay, Specialty and Other Cable Services – Radio) for the year 1996.

The following tariffs, which are presently being examined by the Board, will be the subject of later decisions:

Tariff 2.A (Television – Commercial Stations) for the years 1994 to 1997;

Tariff 8 (Receptions, Conventions, Assemblies and Fashion Shows) for the year 1997;

Tariff 10 (Parks, Streets and Other Public Areas) for the year 1997;

Tariff 17.A (Transmission of Pay, Specialty and Other Cable Services – Television) for the years 1996 and 1997;

Tariff 17.B (Transmission of Pay, Specialty and Other Cable Services – Radio) for the year 1997;

Tariff 19 (Fitness Activities; Dance Instruction) for the years 1996 and 1997; and

Tariff 22 (Transmission of Musical Works to Subscribers via a Telecommunications Service) for the years 1996 and 1997.

As for Tariff 1.A (Commercial Radio), it was certified on September 21, 1996 for the years 1995 to 1997. Tariff 2.E (CTV Television Network) was certified on December 21, 1996 for the period September 1, 1993 to December 31, 1998. Finally, Tariff 6 (Motion Picture Theatres) was certified on December 2, 1995 for the years 1992 to 1998.

A handwritten signature in black ink that reads "Claude Majeau". The signature is written in a cursive style with a large initial 'C'.

Claude Majeau  
Secretary to the Board