Copyright Board Canada | CANADA | Commission du droit d'auteur Canada

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Regime Public Performance of Sound Recordings
Copyright Act, section 68(3)

Members Mr. Justice John H. Gomery
Mr. Stephen J. Callary
Mrs. Sylvie Charron

Proposed Tariff(s) Considered TARIFF 1.C – CBC RADIO IN 1998, 1999, 2000, 2001 AND 2002

Statement of Royalties to be collected by NRCC for the public performance or the communication to the public by telecommunication, in Canada, of published sound recordings embodying musical works and performer's performances of such works

<u>Reasons for decision</u>

I. INTRODUCTION

The following are the Board's reasons dealing with Tariff 1.C (CBC – Radio) as proposed by the Neighbouring Rights Collective of Canada (NRCC) and the *Société de gestion des droits des artistes-musiciens* (SOGEDAM). These tariffs are for the public performance or the communication to the public by telecommunication by the Canadian Broadcasting Corporation (CBC) of performer's performances of musical works and of sound recordings embodying such performer's performances for the years 1998 to 2002. Tariff 1.A (Commercial Radio) was certified on August 13, 1999.[1] Other tariffs proposed by NRCC and SOGEDAM will be disposed of later.

The proceedings required three pre-hearing conferences. Hearings and arguments took place over

[1] See *Statement of royalties to be collected by NRCC for the public performance or the communication to the public by telecommunication, in Canada, of published sound recordings embodying musical works and performer's performances of such works (Tariff 1.A - Commercial radio in 1998, 1999, 2000, 2001 and 2002)* http://www.cb-cda.gc.ca/decisions/m130819 99-b.pdf; (1999) 3 CPR (4th) 350 (commercial radio decision).

nine days between November 23, 1999, and February 16, 2000. SOGEDAM did not play an active role in the process.

II. LEGISLATIVE FRAMEWORK [2]

Section 19 of the *Act* grants performers and makers of published sound recordings the right to share equally in the equitable remuneration to be paid for the performance in public or communication to the public by telecommunication of such recordings. Most of the American repertoire is not entitled to remuneration since the United States has not signed the international convention dealing with the rights covered by the Canadian regime.

The right to remuneration for recordings of musical works is exercised through collective societies that must file proposed tariffs if they intend to collect their share. The Board determines the amount of royalties and their terms and conditions. The certified tariff must apply only in respect of eligible recordings. It must not place certain users that are subject to different linguistic and content requirements, as a result of Canada's broadcasting policy, at a financial disadvantage. Finally, the payment of royalties must be made in a single payment.[3]

Some special conditions apply to radio stations. Community stations pay $100 a year. Commercial stations pay $100 on the first $1.25 million of annual advertising revenues. One third of the royalties is payable in 1998, two thirds in 1999 and the full amount thereafter.[4]

III. THE ISSUES

The Board concurs with the analysis and conclusions of the commercial radio decision dealing with (a) applicable guiding principles; (b) the concept of equitable remuneration; (c) the composition of the properly represented eligible repertoire (including reservations about the validity of steps taken by some collectives to secure management of the right to remuneration); (d) comparisons with foreign public or private broadcasters; and (e) why the Board cannot determine SOGEDAM's share.

The Board also remains of the opinion that NRCC should collect all royalties. However, this conclusion is reached for the sole reason that NRCC's repertoire includes the rights of all makers. It is not necessary, in this matter, to dwell on the interpretation of the single payment requirement.

Thus, for the purposes of these reasons, the only remaining issue is the determination of the amount of royalties that CBC should pay.

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[2] The legislative framework for the so-called neighbouring rights regime is described in detail in the commercial radio decision.
[3] Sections 19, 20, 67.1 and 68 of the *Act*.
[4] Section 68.1 of the *Act*.

IV. THE EVIDENCE

Written evidence and testimony focused mainly on CBC's operations, resources and prospects; its very different way of using the eligible repertoire; the impact of the regulatory framework of the Canadian Radio-television and Telecommunications Commission (CRTC) on CBC's operations and use of the repertoire; the repertoire's value and economic usefulness, both in themselves and as compared with commercial stations; methods of determining the amount of royalties, including the various ways of comparing CBC and the commercial radio industry; CBC's contribution to developing recording artists and the Canadian recording industry; and the general status of the radio and recording industries.

The participants also referred the Board to significant portions of the evidence examined in the commercial radio decision. This procedure greatly reduced the duration of the hearings.

V. REASONS

A. METHOD OF DETERMINING THE AMOUNT OF ROYALTIES

CBC Radio has no advertising revenues. By virtue of its mandate, it operates in a way that a commercial entity could not justify. This results in the need to use a proxy price, a need that has been recognized on several occasions.

Two choices were open to the Board. The participants asked it to use the royalties that commercial stations pay NRCC as a starting point. This approach is similar to the formula used in 1991 to determine the royalties that CBC pays to the Society of Composers, Authors and Music Publishers of Canada (SOCAN).[5] This in itself is not unreasonable.

This being said, the Board prefers that the royalties that CBC pays to NRCC be based on the amount of royalties that CBC pays to SOCAN, adjusted to reflect CBC's relative use of the repertoires of these two collectives. This approach has several advantages.

First, the amount that CBC pays to SOCAN is a price that has been freely negotiated since 1992.

Second, this is precisely how the Board proceeded in the commercial radio decision. Both radio industry sectors are then treated in a similar manner.

Third, as CBC has requested in the past, this avoids making its royalties dependent on those paid by commercial stations. CBC Radio says that it is different. It has no advertising revenues. It also does not offer a radio format, but rather programming or programs. Commercial stations operate in a market that is different from CBC's and over which CBC says it has no influence. The proposed approach determines CBC royalties based solely on CBC data. Thus, if it so desires, CBC may now negotiate the royalties that it pays for its musical input, free of regulatory constraints pertaining to the commercial radio industry. At the same time, any fluctuations in

[5] *Statement of royalties to be collected by SOCAN for the public performance in Canada of musical or dramatico-musical works in 1991*, Copyright Board Reports 1990-1994, pages 283, 309-312.

CBC royalties that might stem from business decisions by commercial stations are minimized.

Fourth, this approach allows the Board to respond to CBC's request and to set the royalties at a specific amount rather than adopting a tariff formula. Were the Board to follow the approach proposed by the participants, then since the data used to derive the royalties would unavoidably change over time,[6] adopting a tariff formula would become necessary. By contrast, the amounts paid to SOCAN over the last decades have remained essentially constant.[7] Consequently, if these amounts are used to derive those payable to NRCC, then the tariff can be certified at a set amount for a period of five years.[8]

Fifth, this makes it unnecessary to decide whether or not to consider the preferential treatment of a commercial station's first $1.25 million in advertising revenues. NRCC sees this as a rebate granted solely to commercial stations that ought to be discounted. CBC maintains that commercial stations must be taken as they are, with all the benefits and obligations stemming from the regime established by Parliament, if any comparison is to be made between the royalties paid by CBC and those owed by commercial stations. This debate is very difficult to resolve, and it would be hazardous to engage in it unless absolutely necessary.

Sixth, the calculation of royalties is simplified. The only information required is the amount of royalties paid to SOCAN, the use made of both repertoires and, if a weighting is deemed necessary, some airplay information. CBC has (or should have) this information. There is no need to forecast the revenues of commercial stations, or to include, or discount, the effect of the preferential treatment they receive. Of course, there is still the issue of weighting data to reflect the varying use patterns of repertoires in regional and local programming. It will be seen later, however, that this debate can be avoided, at least for the time being.

Seventh, collective societies largely represent the same rights holders. The more overlap, the more one is entitled to wonder why users should be required to pay these rights holders royalties based on different, even incompatible formulas. Since most users view all these rights as a single input [9], one might even consider integrating price formulas.

Added to this are some of the reasons outlined in the commercial radio decision. The SOCAN and NRCC tariffs deal with a similar use in a similar market. There is no reason to believe that sound recordings are more valuable in radio airplay than the underlying works. They involve the same uses, the same recordings, the same broadcasters. In the absence of evidence to the contrary, a pre-recorded performance is no more and no less valuable to a broadcaster than a pre-recorded work.

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[6] Otherwise, the rapid growth in the revenues of commercial stations would gradually have led to a disparity between fixed royalties for CBC and the royalties paid by commercial stations. This disparity would have increased exponentially, given the preferential treatment given to commercial stations.

[7] They have increased by less than 8 per cent in nine years, from $1,117,323 in 1991 to $1,206,436 in 2000.

[8] Any unexpected fluctuation in royalties paid to SOCAN might obviously constitute a significant change in circumstances, giving rise to the reopening of the tariff.

[9] A sound recording cannot be communicated without communicating the underlying work and performances at the same time.

B. CBC'S USE OF THE ELIGIBLE REPERTOIRE OF SOUND RECORDINGS

The process of collection and analysis of eligible-repertoire use data for a test period did not appear to be infused with a spirit of cooperation and transparency. It took a lot of time and effort for participants to obtain results that, while they may differ, are close enough that choosing one set of data over another changes little or nothing in terms of the amount of royalties.

Shortly before the hearings ended, the protagonists learned of the existence of tapes that purportedly reproduced all test-period programming by CBC's four main stations. They thus requested a study (the Erin study) to assess the validity of the results previously obtained, so that any necessary adjustments could be made. The tapes proved to be very incomplete. Various operations had to be carried out to derive results that the participants deemed reliable. The study concluded that CBC uses 4 to 7 per cent more musical works than the initial study had determined.

CBC requested that the original data be used as it had interpreted them. NRCC would make an "adjustment". According to CBC, this would amount to using the Erin study data, where available, in preference to the original data. The Board concurs with CBC. The Erin study data should be used to calculate royalties only if there are major differences between the original analysis and the audit results. Given the uncertainty surrounding all of the evidence filed in these proceedings, a difference of 7 per cent in the use of *music* is small enough to validate the results of the original study of the use of *sound recordings*. This is particularly true since it will later be seen that the additional music identified in the Erin study is less likely to form part of the NRCC repertoire than the music identified in the original study.

It was discussed at length whether use data should be weighted on the basis of each network's audience share, the relative audience share of regional programming and each network[10], or the audience share of each program. For the reasons outlined below, the Board intends to use only data for the network's four main stations. It is thus advisable, in this instance, for the weighting to be done on the same basis. In the future, however, thought should be given to using a wider sample as a basis, even a complete survey of the use of the relevant repertoires. To proceed otherwise would overlook the differences that probably exist in how smaller stations use the relevant repertoires.

NRCC would have adjusted the data upwards to reflect the possibility that CBC might not have met Canadian content requirements during the test period. The Board will not do so. It cannot be concluded, by examining one week of programming, that CBC failed to meet its obligations in this regard. CBC witnesses further maintained that, although CBC did not challenge the CRTC's conclusions, that does not mean they were necessarily correct. Moreover, as counsel for CBC demonstrated in his oral arguments, such an adjustment would have little impact on the final result.[11]

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[10] This actually entailed a weighting by station, allocating the total audience obtained by all CBC stations in the region to each station in the sample.
[11] Tr. p. 1181.

By applying the principles outlined above, NRCC determined that CBC broadcasts NRCC repertoire during 20.74 per cent of airplay. CBC's figure is 20.79 per cent. Here, as elsewhere, the Board intends to use the CBC data.

C. CBC'S USE OF THE SOCAN REPERTOIRE

On November 24, 1999, the Board drew the participants' attention to the agreement establishing the royalties that CBC Radio was to pay SOCAN in 2000 for using its repertoire.[12] At the same time, the Board raised the possibility of linking the royalties collected by SOCAN and those the Board was called upon to establish in this matter, and invited the participants to comment. On April 28, 2000, in the absence of feedback from the participants, the Board asked them to assess CBC's probable use of the SOCAN repertoire during the NRCC repertoire use test-period, based on the record of these proceedings, on the Erin study or on any other relevant data.

CBC first argued that the latest available data dated back to 1990, covering a week at the two English -language radio stations in Toronto and the two French-language stations in Montreal.[13] NRCC sought to assess this use on the basis of the data available in the record of these proceedings.[14] Using the 1990 study as a starting point, NRCC extrapolated data for the stations covered by that study from the music use data for 1998. NRCC then weighted the data based on each network's audience share. This had not been done in 1990.

CBC maintained that NRCC's approach was unreliable partly because CBC networks had been reorganized since 1990, and music use had changed as a result. CBC asked the Board to discard this analysis.

NRCC's analysis is based on assumptions that the Board would consider far-fetched under any other circumstances. That being said, the Board has no alternative if it intends to proceed as it wishes to do. The Board chooses to follow the admonition that when faced with assessing damages for copyright infringement: "the tribunal must do the best it can, although it may be that the amount awarded will really be a matter of guess-work." [15]

The four stations used for the 1990 study must be chosen. The Board's approach requires a link between the use of the repertoires concerned. This assumes a knowledge of the proportion of public domain musical works used. The only figures available in this regard are those for 1990. The same stations must thus be used to establish the relevant data for 1998.

The data would then be weighted based on the relative audience of the stations chosen for calculation during the test period, that is, Spring 1998. There is no need to dwell on this subject.

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[12] Tr. pages 245-247.
[13] Exhibit NRCC-II, Annex A.
[14] Exhibit NRCC-XXII.
[15] Harold G. Fox, *The Canadian Law of Copyright and Industrial Designs*, 2d, Carswell, Toronto, 1967, p. 464, as cited in *U & R Tax Services Ltd.* v. *H & R Block Canada Inc.* (1995), 62 C.P.R. (3d) 257 (F.C.T.D). See also *Slumber-Magic Adjustable Bed Co.* v. *Sleep-King Adjustable Bed Co.* (1984), 3 C.P.R. (3d) 81 (B.C.S.C.); *Jacques* v. *La Nouvelle de Sherbrooke* (February 11, 1991), J.E. 91-619 (S.C.).

It will be seen later that this does not affect the final result. By applying the principles outlined above, the Board would have determined that CBC broadcasts the SOCAN repertoire for 21.26 per cent of airplay.

D. FINAL RESULT

Absent the specific difficulties present in these proceedings, the Board would thus have used the following formula to determine the amount of royalties that CBC must pay NRCC:

$$\frac{\text{NRCC repertoire airplay}}{\text{SOCAN repertoire airplay}} \times \text{SOCAN royalties}$$

The amount of royalties thus calculated, found on line 15 of Table I, would have totalled $1,179,765.

This being said, given the nature of the available data, adjustments would then have had to be made. Table I, in particular at line 16, illustrates the potential impact of two of these adjustments. The amount of royalties thus calculated would instead have been about $970,000.

For example, NRCC's analysis assumes that the proportion of public domain musical works is the same today as in 1990. This is unlikely, given radical changes in the mandate and programming of each network. All-talk stations use far less music than previously.[16] Considering the nature of the changes that have occurred, it is conceivable that the proportion of copyright music has also increased. In the absence of any data in this regard, the Board would be inclined to adjust the 1990 data. Using the ratio derived in the private copying matter (95 per cent of music forming part of the SOCAN repertoire), instead of the 77.9 per cent and 69.4 per cent obtained in 1990, would probably be the most logical choice.[17]

Secondly, the NRCC analysis assumes that the additional music identified in the Erin study is just as likely to form part of its repertoire as the music identified in the original study. In all probability, this music is more likely to form part of the SOCAN repertoire, and unlikely to form part of the NRCC repertoire. Indeed, it mainly seems to entail copyright but unpublished music.[18] The original study even failed to address some music performed before a live audience.[19] In the absence of any data in this regard, the Board would probably have proceeded by assigning virtually all music identified by the Erin study to SOCAN and not to NRCC.

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[16] Exhibit NRCC-XXIII, page 2.

[17] Making such an adjustment would not have required a similar adjustment in the NRCC repertoire, since the previous title analysis focused on the eligibility of recordings, not music.
The analysis could have been pursued further to seek to determine why French-language FM radio used the SOCAN repertoire far less in 1990 than its English-language counterpart.

[18] Exhibit NRCC-XXV, page 3. This is theme music (*The House*, *Cross Country Checkup*) or music performed before a live audience (*On Stage at the Gould*, *Madly Off in All Directions*). The latter is a particularly interesting program, since the only music used is the program's theme and recent music performed before a live audience. As a result, all of the music is probably part of the SOCAN repertoire, but none is in the NRCC repertoire.

[19] Exhibit CBC-41, paragraph 9.

This having been said, these adjustments are unnecessary, since the tariff certified is lower than the amount obtained by this procedure. The Board intends to fix royalties at a set amount for the period of the tariff. NRCC did not propose such an amount. For the purposes of this case, and considering once again the uncertainty surrounding all the record of these proceedings, it would be unfair to set royalties at more than the highest amount indicated in Table 8 of CBC's outline of closing arguments. Consequently, the amount of royalties is set at $960,000 a year.

E. OTHER REDUCTIONS

i. Subparagraph 68(2)(*a*)(*ii*) of the *Act*

Subparagraph 68(2)(*a*)(*ii*) of the *Act* states that the tariff may not, "because of linguistic and content requirements of Canada's broadcasting policy set out in section 3 of the *Broadcasting Act*, place some users that are subject to that *Act* at a greater financial disadvantage than others". CBC's content requirements may cause it to use the eligible repertoire more than it would if such requirements did not exist. However, the Board will not reduce the amount of royalties on this ground.

First, CBC receives subsidies that reflect its content requirements. The amounts that CBC invests per listener go far beyond what commercial stations can afford.[20] A remedy is thus already provided for any disadvantage stemming from content requirements.

Second, as noted in the commercial radio decision, the *Act* does not require that the regulatory framework's impact on use patterns be disregarded. Rather, it requires that Canada's broadcasting policy not place some users at a greater disadvantage *than others*. Rights holders are not required to subsidize users on the ground that users are required to meet regulatory requirements.

Moreover, CBC says that it is different. CBC and commercial stations operate in the same market only incidentally. CBC itself maintains that it provides programming for an audience, while commercial stations provide a format for an audience, and then sell the audience to advertisers.[21] How, then could CBC be placed at a greater disadvantage than users that, by its own admission, operate in a different market?

Third, CRTC policy does not have the same purpose as copyright. Copyright deals with compensation for the use of all eligible recordings. CRTC policy meets the aims of the *Broadcasting Act* and focuses mainly on the creation of Canadian works and recordings. To reduce compensation for rights holders, based on CRTC policy, would be both inappropriate and unfair.

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[20] Moreover, the rights holders do not seek a bonus for the amounts that CBC invests beyond the economic value of its programming.

[21] The situation could change if CBC became largely dependent on advertising revenues.

ii. Other proposed methods of reduction

CBC asks that some account be taken of the benefits of its activities to rights holders. The Board continues to reject this ground as a basis for a reduction, especially since CBC receives large sums precisely for the benefits that it must provide to the industry.

It was claimed that CBC uses portions of the eligible repertoire that are of lesser economic value. The Board rejects this claim on the ground that, other things being equal, all portions of the repertoire are of the same value. The argument is all the more specious since, if CBC uses portions of the repertoire that are less valued by commercial stations, this tells us nothing about the value that these portions have for CBC, which is precisely supposed to serve as a counterbalance to commercial radio.

It was also argued that CBC faces financial constraints. This argument is adequately addressed in the following paragraphs.

iii. CBC's ability to pay

For the period of the tariff, and subject to the rebates that it enjoys pursuant to the *Act*, CBC will pay royalties representing about 0.4 per cent of the network's operating costs, which total over $250 million. Even considering the preferential treatment of the first $1.25 million in advertising revenues for commercial stations, the latter pay almost twice as high a percentage of their revenues as the CBC pays.

Moreover, as CBC subsidies come from the same Parliament that required CBC to pay royalties in 1997, it must be assumed that Parliament is convinced that CBC has the means to pay.

VI. THE TARIFF STRUCTURE

The following brief comments may help in understanding the tariff wording.

First, since no one has raised any issues in this regard, the tariff is established for a five-year period.

Second, paragraph 68.1(1)(*c*) of the *Act* phases in the payment of royalties for public transmission systems, one of which is CBC Radio, even though Cabinet has opted not to define the expression.[22] Consequently, notwithstanding the tariff approved by the Board, CBC will pay only one third of the royalties in 1998, two thirds in 1999 and the full amount thereafter. As a result, it is helpful to include in the tariff a reference to the relevant provision.

Third, as in the case of SOCAN, payments will be made on a monthly basis.

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[22] *Statement of Royalties to be Collected by SOCAN for the Performance or Communication by Telecommunication in Canada of Musical or Dramatico-Musical Works for Tariff 17 for the Years 1990 to 1995* (1996), http://www.cb-cda.gc.ca/decisions/m19041996-b.pdf; p. 40.

Fourth, the tariff basically reiterates on the whole the provisions of the agreement between CBC and SOCAN. Thus, given the price formula chosen, there is no need for audit provisions.

In terms of reporting requirements, CBC will be required to provide NRCC with the data received by SOCAN. The Board does not intend to impose any other reporting requirements, subject to what will be said in conclusion. Once again, the Board fully expects that NRCC will cooperate with SOCAN so as to minimize CBC's reporting burden.

A. INTEREST ON LATE PAYMENTS

Any amount not received by the due date shall bear interest calculated daily, at the Bank Rate effective on the last day of the previous month (as published by the Bank of Canada) plus one per cent. Interest shall not compound.

B. TRANSITIONAL PROVISIONS

The tariff contains certain transitional provisions made necessary because the tariff takes effect on January 1, 1998, even though it was approved much later. A table sets out interest factors or multipliers to be used on sums owed in a given month. The multiplying factors were derived using previous month-end Bank Rates covering the period January 1998 to August 2000 as published by the Bank of Canada (rates for September and October 2000 were set equal to the current Bank Rate). The Board considers that a penalty over and above the interest factor should not be imposed on retroactive payments in this matter, as there was no way for CBC to estimate the amounts payable until the tariff was approved. Interest is not compounded. The amount owed for any given month is the monthly amount of the approved tariff multiplied by the factor set out for that month.

VII. CONCLUSION

In closing, the Board wishes to comment on the proceedings, the significant resources in time and money that the Board and participants have been obliged to invest in this matter, and how time and money might be saved in the future.

It clearly emerges from the discussion surrounding these proceedings that there is no such thing as a database surveying CBC's use of musical works and sound recordings in its national, regional and local programming.[23] The Board is unable to assess whether establishing such a tool is economically viable or technically feasible.[24] It is conceivable, however, that establishing such a database would considerably simplify some aspects of collective administration, and might be economically viable if information were established in cooperation with SOCAN, NRCC and other interested societies, instead of remaining in the hands of one entity. The economic contribution represented by the provision of such data to collective societies might well result in

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[23] Based on the text of the Board's previous decisions, it is conceivable that SOCAN has the most complete data in this regard: Copyright Board Reports 1990-1994, page 288.
[24] It seems, in fact, that Australian stations prepare such surveys electronically and have been providing them to collective societies for several years.

a rebate on royalties. Such a measure would not only allow the establishment of a fair distribution scheme, it would also clearly establish CBC as a leader in cooperative endeavours between users and rights holders. Finally, it could considerably simplify the work of the Board, other regulatory agencies, and participants at hearings before the Board and the Corporation itself, when the time comes to revisit the many regulatory processes in which the Corporation is involved.

Needless to say, such a database would have shortened these discussions and made them less acrimonious. It is conceivable that, if the resources devoted to this matter greatly exceed the amount of royalties determined by the Board, this is largely because of the absence of a reliable census of the use of the repertoire.

Claude Majeau
Secretary General

TABLE I

Analysis of CBC Use of SOCAN Repertoire, with alternative estimates

Lines 1 and 2 are from Exhibit NRCC-XXII, Table 1. Line 4 is from Exhibit NRCC-XXII, Table 3.
Line 6 is from Exhibit CBC-41, Table 2.
Line 11 is from Exhibit NRCC-XXV, page 5 (bottom table, last line).
Line 13 is from Exhibit CBC-40, Table 2, last line.
BD= broadcast day

	CBL Radio 1	CBL-FM Radio 2	CBF Première chaîne	CBF-FM Chaîne culturelle	Total
***NRCC ANALYSIS** (adjusted using CBC derived audience shares)*					
1. Protected Music (1990, % BD)	25.4	38.4	27.7	24.3	
2. All Music (1990, % BD)	32.6	72.7	39.9	72.8	
3. Protected / All Music (1990, in %) [1/2]	77.90	52.80	69.40	33.40	
4. All Music (1998, % BD)	21.45	70.85	24.08	61.22	
5. Protected Music (1998, % BD) [3*4]	16.70	37.40	16.70	20.40	
6. Audience Share (Spring 98, in %)	59.18	21.06	14.90	4.86	
7. Audience Weighted Use of Protected Music (All stations, 1998, % BD) [5*6]	9.89	7.88	2.49	0.99	21.26
ALTERNATIVE ANALYSIS					
8. Protected / All Music (1998, in %) [Line 3 for Radio 2 and Chaîne culturelle; Board's decision for Radio 1 and Première chaîne]	95.0	52.8	95.0	33.4	
9. Protected Music (1998, % BD) [8*4]	20.4	37.4	22.9	20.4	
10. Audience Weighted Use of Protected Music (All stations, 1998, % BD) [9*6]	12.06	7.88	3.41	0.99	24.34
11. Adjustment to reflect music use first detected by Erin [36.25 / 34.09]					1.063
12. Imputed use of protected music (All stations, 1998, % BD) [total line 10 × line 11]					25.88
13. CBC Use of NRCC Repertoire (All stations, 1998, % BD)					20.79
14. CBC Radio Royalties to SOCAN – Year 2000					$1,206,436
15. CBC Radio Royalties to NRCC (NRCC Approach) ([line 13 × line14] ÷ line 7)					$1,179,765
16. CBC Radio Royalties to NRCC (Board Approach ([line 13 × line14] ÷ line 12]					$969,157
17. CBC Radio Royalties to NRCC (CBC Approach) [CBC-37, Table 8, cell E-10]					$960,140
18. 1999 CBC Radio Royalties as Certified [Board's decision]					$960,000