

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date 2007-02-16

Citation File: Reproduction of Musical Works 2007

Regime Collective Administration in Relation to Rights Under Sections 3, 15, 18 and 21
Copyright Act, subsection 70.15(1)

Members Mr. Stephen J. Callary
Mrs. Francine Bertrand-Venne
Mrs. Sylvie Charron

Statement of Royalties to be collected by CMRRA/SODRAC inc. for the reproduction of musical works, in Canada, by commercial radio stations for the year 2007

Reasons for decision

[1] On March 31, 2006, CMRRA/SODRAC Inc. (CSI) filed, pursuant to subsection 70.13(1) of the *Copyright Act*, a proposed tariff of royalties to be collected for the reproduction of musical works in Canada by commercial radio stations in 2007. The proposed tariff was published in the *Canada Gazette* on April 22, 2006. The Board gave notice to prospective users or their representative of their right to object.

[2] The proposal is identical to the 2006 certified tariff in all but two respects. It omits a transitional provision that has become moot. CSI had also asked that royalties for the first two months of operation of a new station be calculated using the income for those months. Usually, royalties are based on the income for the “reference month” which is defined as the second month before the month for which royalties are being paid: a station pays on March 1 royalties that are due for that month on the basis of its January income. The purpose of the change probably was to prevent a station from obtaining a free licence for its first two months of operation, given that a station does not earn advertising revenues until it starts broadcasting.

[3] On June 21, 2006, the Canadian Association of Broadcasters (CAB) objected to the proposed tariff. The objection essentially targeted the new provision that is outlined in paragraph [2]. On August 22, 2006, CSI withdrew its request in this respect. On August 25, 2006, CAB withdrew its objection on the understanding that the certified tariff would reflect the revised version that CSI had filed three days earlier.

[4] It might have been interesting to learn more about the issue that the modification included in the proposed tariff attempted to settle. Still, the problem, if it exists, is no doubt so marginal that it is not appropriate to deal with it in an isolated fashion.

[5] Stations will continue to pay royalties on their gross income. The Board has alluded in the past to the need to harmonize the rate bases for the royalties that commercial stations pay to the Society of Composers, Authors and Music Publishers of Canada (SOCAN), the Neighbouring Rights Collective of Canada (NRCC) and CSI. Again, this is not a matter that should be disposed of without a hearing. The *SOCAN-NRCC Commercial Radio Tariff, 2003-2007* will expire at the same time as the tariff we certify here. The issue can be addressed when the Board deals with these three collectives' tariffs for 2008.

[6] We therefore certify, for 2007, a tariff that is identical to the one certified for 2006. Stations where works from the repertoire account for less than 20 per cent of their broadcasting time and stations that neither make nor keep hard drive copies will pay 0.12 per cent on the first \$625,000 of gross annual income, 0.23 per cent on the second \$625,000 and 0.35 per cent on the rest. The rates applicable to other stations will be 0.27 per cent, 0.53 per cent and 0.8 per cent respectively. This is expected to generate royalties of approximately \$8 million in 2007.

A handwritten signature in black ink that reads "Claude Majeau". The signature is written in a cursive, flowing style.

Claude Majeau
Secretary General