

Copyright Board  
Canada



Commission du droit d'auteur  
Canada

**Date** 2010-01-15

**Citation** Files: Public Performance of Musical Works 2007-2009; Public Performance of Sound Recordings 2007-2009

**Regime** Public Performance of Music  
*Copyright Act*, subsection 68(3)

**Members** Mr. Justice William J. Vancise  
Mr. Claude Majeau  
Ms. Jacinthe Th  berge

**Statement of Royalties to be collected by SOCAN and NRCC in respect of pay audio services for the years 2007-2009**

**Reasons for decision**

The statements of royalties proposed by the Society of Composers, Authors and Music Publishers of Canada (SOCAN) for the public performance or the communication to the public by telecommunication, in Canada, of musical or dramatico-musical works by pay audio services for the years 2007, 2008 and 2009 were published in the *Canada Gazette* on May 20, 2006, June 23, 2007 and June 14, 2008. The statement of royalties proposed by the Neighbouring Rights Collective of Canada (NRCC) for the communication to the public by telecommunication, in Canada, of published sound recordings embodying musical works and performers' performances of such works by pay audio services for the years 2007 to 2011 was published in the *Canada Gazette* of May 6, 2006.

SOCAN asked for the existing rate of 12.35 per cent of affiliation payments. NRCC sought an increase from 5.85 to 15 per cent. Small systems would continue to enjoy a 50 per cent discount.

Objections were filed by the Canadian Broadcasting Corporation, the Canadian Cable Systems Alliance, Cogeco Cable Inc., Corus Entertainment Inc., Rogers Communications Inc., MTS Allstream Inc., SaskTel Communications Company, Shaw Cablesystems, Star Choice Television Network Inc., Telus Communications Co. and Vid  otron Ltd. In the end, however, all parties agreed to maintain the status quo for the years 2007 to 2009 and all objectors withdrew their objections with respect to that period. The Board remains seized of NRCC's proposed tariff for 2010 and 2011, with the attending objections.

The Board thus certifies for the years 2007 to 2009 a tariff identical to the 2003-2006 tariff in all

but two respects. The new tariff reflects the changes made in 2005 to the *Definition of "Small Cable Transmission System" Regulations* [see SOR/2005-148, *Canada Gazette*, Part II, Vol. 139, at page 1195]. Also, paragraph 9(2)(v) contains a slight adjustment to the confidentiality provision.

Data provided by SOCAN allows us to estimate that this tariff generates total royalties in an amount of about \$4.5 million per year. SOCAN collects about two thirds of this amount.

A handwritten signature in black ink, appearing to read "Gilles McDougall". The signature is fluid and cursive, with the first name being more prominent.

Gilles McDougall  
Acting Secretary General