

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date	2018-12-21
Citation	CB-CDA 2018-232
Regime	Collective Administration in Relation to Rights under Sections 3, 15, 18 and 21 <i>Copyright Act</i> , subsection 70.15(1)
Members	The Honourable Robert A. Blair Mr. Claude Majeau
Proposed Tariffs Considered	Commercial Radio Stations (2019) CMRRA/SODRAC Connect/SOPROQ Artisti

Statement of Royalties to be collected for the reproduction, in Canada, of musical works, of sound recordings, and of performers' performances

Reasons for decision

I. GENERAL

A. INTRODUCTION

[1] On March 29, 2018, CMRRA/SODRAC, Connect/SOPROQ, and Artisti (the “Collectives”) filed a joint proposed statement of royalties to be collected from commercial radio stations for the reproduction of musical works, sound recordings and performers’ performances for the year 2019, pursuant to subsection 70.13(1) of the *Copyright Act*.¹

[2] The proposed statement of royalties was published in the *Canada Gazette* on May 12, 2018. No objections were filed by prospective users or their representatives. On July 20, 2018, the Collectives and the Canadian Association of Broadcasters (the “Parties”) jointly wrote to the Board, requesting that the proposed statement of royalties be certified.

¹ *Copyright Act*, RSC, 1985, c C-42.

[3] When a tariff is unopposed, the Board must examine it to see how it differs from its predecessor. This is because tariffs certified by the Board are of general application, as opposed to agreements signed among a smaller number of parties. We thus compare the proposed statement of royalties to the tariff certified by the Board on December 15, 2018 for the years 2012 to 2018 (the “2012-2018 Tariff”).

[4] The proposed statement of royalties is essentially the same as the 2012-2018 Tariff, except for one minor change relating to the substitution of “CMRRA/SODRAC” for “CSI”. In the Parties’ letter of July 20, there was no explanation for this change. Pursuant to subsection 15(1.1) of the proposed statement, royalties are payable to CSI but information is to be filed with CMRRA and SODRAC separately. The consequence of this change for users is minimal, given that this requirement is already present in the 2012-2018 Tariff in regards of Connect and SOPROQ: payments are made to Connect, but the information is filed separately with Connect and SOPROQ.

[5] Subsection 6(2) of the proposed statement of royalties provides that a user of the tariff may not seek a reduction in the royalties payable through the application of an exception under the *Act*. As we noted in the December 14, 2018, decision of the Board in respect of 2012-2018 Tariff:

[...] This provision is not necessary: as is the case for many of the Board’s tariffs, the determination of royalty rates in this matter already includes a discount for the possible application of exceptions. Where a discount may be sought in a tariff, the possibility is already explicitly provided for. Moreover, including such a provision in this tariff may erroneously suggest that seeking such a discount is possible in the context of other tariffs that do not include such a provision.²

[6] For the same reasons, we do not include such a provision in this tariff.

[7] Given the above, we certify the tariff for 2019 as requested by the Parties.



Gilles McDougall
Secretary General

² *Commercial Radio Stations – Application to Vary and Determination (2012-2018)* (December 14, 2018) Copyright Board Decision at para 100.