

Copyright Board
Canada



Commission du droit d'auteur
Canada

[CB-CDA 2023-013]

RULING OF THE BOARD

Proceeding: SOCAN Tariff 22.D.3 – Online Allied Services (2014-2023)

March 13, 2023

[1] On February 24, 2023, the Board issued its decision with regard to *SOCAN Tariff 22.D.3 (2007-2013)* (2023 CB 1)¹ based on a jointly-submitted text (the “JST”) for the years 2007-2018, which was filed by SOCAN, the Canadian Association of Broadcasters (CAB), and a group of broadcast distribution undertakings² (the “BDUs”) on June 4, 2018.

[2] As a result, the following proposed tariffs targeted by the JST remain to be considered:

- SOCAN Tariff 22.D – Internet - Other Uses of Music - Audiovisual Content (2014, 2015) [as applicable to AV allied services]; and
- SOCAN Tariff 22.D.1 – Internet - Other Uses of Music - Audiovisual Content (2016, 2017, 2018) [as applicable to AV allied services].

[3] On February 26, 2021, the Board sought input on whether it should consider the following proposed tariffs together with one or both portions of the JST.³

- SOCAN Tariff 22.D.3 – Allied Audiovisual Services (2019-2020, 2021-2023).

[4] Both the Parties to the JST and Objectors to the 22.D.3 proposed tariffs were given an opportunity to respond. The Parties to the JST submitted that “[t]he Board should consider the

¹ *SOCAN Tariff 22.D.3 (2007-2013)*, 2023 CB 1 (February 24, 2023), online: CB < <https://decisions.cb-cda.gc.ca/cb-cda/decisions/en/item/521010/index.do> >.

² The group of broadcast distribution undertakings consist of Bell Canada, Cogeco Communications Inc., Bragg Communications Inc. (c.o.b. as Eastlink), Rogers Communications Canada Inc., Shaw Communications Inc., Telus Communications Inc., and Quebecor Media Inc.

³ Order of the Board CB-CDA 2021-016, February 26, 2021.

proposed tariffs SOCAN 22.D.3 (2019-2020 and 2021-2023) together with both portions of the Settlement”.⁴ None of the Objectors responded to the Order.

[5] The Board notes the presence on the record of Objectors and an Intervener, listed as follows:

Table 1: Objectors and Interveners

Entity	Proposed tariff(s)
Apple Inc. and Apple Canada Inc.	SOCAN Tariff 22.D (2014, 2015)
	SOCAN Tariff 22.D.1 (2016, 2017, 2018)
	SOCAN Tariff 22.D.3 (2019-2020)
Entertainment Software Association and Entertainment Software Association of Canada	SOCAN Tariff 22.D (2015)
	SOCAN Tariff 22.D.1 (2016, 2017)
Goodlife Fitness Centers Inc.	SOCAN Tariff 22.D.3 (2019-2020)
Meta Platforms Inc. (filed as Facebook Inc., became Meta Platforms Inc. on October 28, 2021)	SOCAN Tariff 22.D (2014) [Intervener]
Netflix Inc.	SOCAN Tariff 22.D (2015)
	SOCAN Tariff 22.D.1 (2016, 2017, 2018)
Sirius XM Canada	SOCAN Tariff 22.D.3 (2019-2020)
Stingray Digital Group Inc.	SOCAN Tariff 22.D.1 (2016, 2017, 2018)
	SOCAN Tariff 22.D.3 (2019-2020, 2021-2023)

⁴ Email from SOCAN, CAB, and BDUs in response to Notice CB-CDA 2021-016, 10 March 2021.

[6] The Board further notes the submissions of SOCAN, the CAB, and the BDUs that the objections to SOCAN 22.D.3 – Allied Audiovisual Services (2019-2020, 2021-2023) appear to have been filed by entities that would not be subject to these proposed tariffs.⁵

I. RULING

[7] The Board will consider together the following proposed tariffs in a written hearing:

- SOCAN Tariff 22.D – Internet - Other Uses of Music - Audiovisual Content (2014, 2015) [as applicable to AV allied services];
- SOCAN Tariff 22.D.1 – Internet - Other Uses of Music - Audiovisual Content (2016, 2017, 2018) [as applicable to AV allied services]; and
- SOCAN Tariff 22.D.3 – Allied Audiovisual Services (2019-2020, 2021-2023).

II. ORDER

A. THE OBJECTORS AND INTERVENER SHALL INDICATE INTENT TO PARTICIPATE

[8] The Objectors and Intervener shall file with the Board confirmation of their intent to participate in the consideration of the proposed tariffs in this proceeding and shall file a description of their activities subject to those proposed tariffs no later than **Monday, March 27, 2023**.

[9] Any entity that does not indicate their intent to participate in this manner shall be deemed to no longer be a participant in this proceeding on **Tuesday, March 28, 2023**.

B. FILE SUBMISSIONS IN SUPPORT OF THE JST

[10] No later than **Monday, April 3, 2023**, SOCAN, the CAB, and the BDUs shall jointly file with the Board and serve on any remaining objectors and intervener the following:

1. All information and documents required by Rule 33(1) of the *Copyright Board Rules of Practice and Procedure*⁶ and detailed in the *Practice Notice on Filing of Jointly-Submitted Texts in a Proceeding*⁷; and
2. In addressing point 5 of the Practice Notice, any submissions and evidence that address,

⁵ *Ibid.*

⁶ *Copyright Board Rules of Practice and Procedure* (SOR/2023-24), online: <<https://laws-lois.justice.gc.ca/PDF/SOR-2023-24.pdf>>.

⁷ Practice Notice on Filing of Jointly-Submitted Texts in a Proceeding (June 17, 2022), PN 2022-005 rev. 1, online: <<https://cb-cda.gc.ca/sites/default/files/inline-files/PN-005%20rev1%20-%20Filing%20of%20Jointly-Submitted%20Texts.pdf>>.

specifically, whether the CAB and the group of BDUs can represent the interests of all users, taking into account that some CRTC licenced BDUs are not part of the JST and that there are many BDUs that are exempt from CRTC licensing (BDUs with fewer than 20,000 subscribers);

C. THE OBJECTORS AND INTERVENER MAY RESPOND

[11] No later than **Monday, April 24, 2023**, remaining Objectors and the Intervener, if any, may file with the Board and serve on SOCAN, the CAB and the BDUs their response to the submissions of SOCAN, the CAB and the BDUs.

Esther Bonin
A/Senior Clerk